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CODE OF LAWS

OF

SOUTH CAROLINA

1922

IN THREE VOLUMES

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VOLUME II

CRIMINAL LAWS

THE R. L. BRYAN CO. AND THE STATE CO.
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CRIMINAL LAWS

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PRISONS AND IMPRISONMENT.

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CHAPTER I.

Offenses Against the Person.

(1) § 1. Murder Defined.—Murder is the killing of any person with malice aforethought, either express or implied.

Crim. Code, '12, § 135; Crim. Code, '02, § 108; G. S. 2453; R. S. 108; 1712, II, 418.

This Section does not make murder a statutory offense; it is still a common law crime. State *v.* Coleman, 8 S. C. 237; State *v.* Bowers, 65 S. C. 213, 43 S. E. 656, 95 Am. St. Rep. 795.

Distinction between murder and manslaughter. State *v.* Ferguson, 2 Hill 619; State *v.* Bowers, 65 S. C. 213, 43 S. E. 656, 95 Am. St. Rep. 795; State *v.* Adams, 68 S. C. 421, 47 S. E. 676; State *v.* Reeder, 72 S. C. 226, 51 S. E. 702; State *v.* Driggers, 84 S. C. 532, 66 S. E. 1042, 137 Am. St. Rep. 855, 19 Am. & Eng. Ann. Cas. 1166. State *v.* Chastain, 85 S. C. 64, 67 S. E. 6.

Upon trial for the greater offense defendant may be found guilty of the less. State *v.* Gaffney, Rice 431.

In case of infanticide, it must be shown that the infant was alive—that it had an independent circulation. State *v.* O'Neall, 79 S. C. 571, 60 S. E. 1121.

PRINCIPALS—

All present aiding and abetting are. State *v.* Fley, 2 Brev. 338; State *v.* Crank, 2 Bail. 66; State *v.* Anthony, 1 McC. 285; State *v.* Arden, 1 Bay 487; State *v.* Cannon, 49 S. C. 550, 27 S. E. 526; State *v.* Carson, 36 S. C. 524, 15 S. E. 588.

Murder may be committed as the result of some illegal act; a formed design to take life is not necessary. State *v.* Alexander, 30 S. C. 74, 8 S. E. 440.

State *v.* Thompson, 76 S. C. 116, 56 S. E. 789.

Criminal intent evidenced by a grossly careless act. State *v.* Clardy, 73 S. C. 340, 53 S. E. 493.

State *v.* Merriman, 34 S. C. 16, 12 S. E. 619.

In attempting to commit homicide, the killing of another is murder. State *v.* Levelle, 34 S. C. 120, 13 S. E. 319.

Malice defined. State *v.* Miller, 73, S. C. 277, 53 S. E. 426, 114 Am. St. Rep. 82; State *v.* McDaniel, 68 S. C. 304, 47 S. E. 384, 102 Am. St. Rep. 661; State *v.* Gallman, 79 S. C. 230, 60 S. E. 683; State *v.* Byrd, 72 S. C. 110, 51 S. E. 542.

Malice is a term of art importing wickedness and excluding a just cause or excuse. State *v.* Doig, 2 Rich. 179.

State *v.* Levelle, 34 S. C. 120, 13 S. E. 319.

The fact that the killing was by a crowd engaged in a riot does not affect the degree of the homicide. State *v.* Jenkins, 14 Rich, 215.

Mere words can constitute no provocation. State *v.* Workman, 39 S. C. 151, 17 S. E. 694.

If an intentional killing is proved and no more, the law implies malice. State *v.* Jones, 29 S. C. 201, 7 S. E. 296; State *v.* Alexander, 30 S. C. 74, 8 S. E. 440; State *v.* Mason, 54 S. C. 240, 32 S. E. 357; State *v.* Ariel, 38 S. C. 221, 16 S. E. 779.

State *v.* Henderson, 74 S. C. 477, 53 S. E. 117; State *v.* Jones, 74 S. C. 457, 54 S. E. 1017; State *v.* Foster, 66 S. C. 469. 45 S. E. 1; State *v.* McDaniel. 68 S. C. 304. 47 S. E. 384. 102 Am. St. Rep. 661; State *v.* Rochester, 72 S. C. 195, 52 S. E. 685; State *v.* Jones, 86 S. C. 17, 67 S. E. 160.

But where all the facts are proved the jury must say whether there was malice, and not imply it from the mere fact of killing. State *v.* Alexander, 30 S. C. 74, 8 S. E. 440. The State must prove it. State *v.* Coleman, 6 S. C. 186; State *v.* Hopkins. 15 S. C. 157; State *v.* Jones, 29 S. C. 201, 7 S. E. 296.

It may be presumed. State *v.* Smith, 2 Strob. 77.

As from use of deadly weapon. State *v.* Sisson, 3 Brev. 59; State *v.* Ferguson, 2 Hill 619; State *v.* Smith, 2 Strob. 77; State *v.* Levelle, 34 S. C. 120, 13 S. E. 319; State *v.* Jackson, 36 S. C. 487, 15 S. E. 559; State *v.* Way, 38 S. C. 333, 17 S. E. 39; State *v.* Byrd, 72 S. C. 104, 51 S. E. 542.

Or from circumstances showing a depraved spirit. State *v.* Smith, 2 Strob. 77; State *v.* Ford, 1 Spears, 146.

Killing another, while attempting to commit suicide. State *v.* Levelle, 34 S. C. 120, 13 S. E. 319.

Whipping slave of unknown owner to death, after pursuit and capture. State *v.* Motley, 7 Rich. 327.

Where the killing was in a quarrel and encounter, if the facts show that it arose out of his misconduct, malice on the part of the defendant might be inferred. State *v.* Hammond, 5 Strob. 101.

Killing of another when shooting at one to make his horse throw him presumes malice and is murder. State *v.* Smith, 2 Strob. 77.

Where one interferes in an affray to separate the combatants, and gives notice of his intent, and is slain by one of the combatants, it is murder. State *v.* Ferguson, 2 Hill 619.

Whereever there is a previously formed intention to kill, it cannot be excused by a provocation at time of the homicide. State *v.* Sullivan, 43 S. C. 205, 21 S. E. 4.

Accessories before the fact. State *v.* Kennedy, 85 S. C. 146, 67 S. E. 152; State *v.* Kenny, 77 S. C. 236, 57 S. E. 859.

Conspiracy to murder. State *v.* Hunter, 77 S. C. 119, 57 S. E. 637; State *v.* Norton, 69 S. C. 456, 48 S. E. 464; State *v.* White, 67 S. C. 320, 45 S. E. 210; State *v.* Marks, 70 S. C. 448, 50 S. E. 14.

Murder of a servant by excessive whipping. State *v.* Shaw, 64 S. C. 566, 43 S. E. 14, 92 Am. St. Rep. 817, 60 L. R. A., 801n.

Murder committed in mutual combat. State *v.* Turner, 63 S. C. 548, 41 S. E. 778; State *v.* Gaylord, 70 S. C. 415, 50 S. E. 20; State *v.* Andrews, 73 S. C. 258, 53 S. E. 423.

Malice defined. State *v.* Miller, 73 S. C. 277, 53 S. E. 426, 114 Am. St. Rep. 82; State *v.* McDaniel, 63 S. C. 304, 47 S. E. 384, 102 Am. St. Rep. 661; State *v.* Gallman, 79 S. C. 230, 60 S. E. 683; State *v.* Byrd, 72 S. C. 110, 51 S. E. 542.

DEFENSE—

Self-defense:

Necessity to kill not a defense when defendant brought such necessity upon himself. State *v.* Jacobs, 28 S. C. 29, 4 S. E. 799; State *v.* Murrell, 33 S. C. 83, 11 S. E. 682; State *v.* Becham, 24 S. C. 283; State *v.* Petsch, 43 S. C. 132, 20 S. E. 993; State *v.* Trammell, 40 S. C. 331, 18 S. E. 940; State *v.* Summer, 55 S. C. 32, 32 S. E. 771; State *v.* Lee, 85 S. C. 101, 67 S. C. 141, 147 Am. St. Rep. 869.

One killing while engaged in an unlawful act cannot plead self-defense. State *v.* Emerson, 78 S. C. 83, 58 S. E. 974.

It is made out when jury is satisfied that prisoner really believed, as a man of ordinary reason and firmness, that there was necessity to kill to save himself from death or serious bodily harm: it is not necessary to show that there was no other means of escape. State *v.* McGreer, 13 S. C. 464; State *v.* Turner, 29 S. C. 34, 6 S. E. 891; State *v.* Jones, 29 S. C. 201, 7 S. E. 296; State *v.* Jackson, 32 S. C. 27, 10 S. E. 769; State *v.* Wise, 33 S. C. 582, 12 S. E. 556; State *v.* Bodie, 33 S. C. 117, 11 S. E. 624; State *v.* Littlejohn, 33 S. C. 599, 11 S. E. 638; State *v.* Merriman, 34 S. C. 16, 12 S. E. 619; State *v.* Symmes, 40 S. C. 383, 19 S. E. 16; State *v.* McIntosh, 40 S. C. 347, 18 S. E. 1033; State *v.* Sullivan, 42 S. C. 205, 21 S. E. 4; State *v.* Ariel, 38 S. C. 221, 16 S. E. 779; State *v.* Corley, 43 S. C. 128, 20 S. E. 989.

This may be shown by preponderance of testimony. State *v.* Merriman, 34 S. C. 16, 12 S. E. 619; State *v.* Brown, 34 S. C. 41, 12 S. E. 662; State *v.* Summers, 36 S. C. 479, 15 S. E. 369.

But a witness testifying as to all the circumstances cannot give his opinion as to whether the prisoner's life was in danger from the deceased. State *v.* Summers, 36 S. C. 479, 15 S. E. 369.

But the bare fact that deceased was presenting a gun at defendant when he shot does not necessarily make the killing self-defense. State *v.* Bodie, 33 S. C. 117, 11 S. E. 624.

Where deceased had some days before fired at prisoner and then threatened his life, it was not self-defense to kill unless deceased showed an intention to take his life. State *v.* Jackson, 32 S. C. 27, 10 S. E. 769.

Seeking or inciting provocation. State *v.* Nance, 25 S. C. 168; State *v.* Richardson, 47 S. C. 18, 24 S. E. 1028.

Necessity of withdrawal. State *v.* Jacobs, 28 S. C. 29, 4 S. E. 799.

Defense of habitation. State *v.* McIntosh, 40 S. C. 349, 18 S. E. 1033; State *v.* Cannon, 52 S. C. 453, 30 S. E. 589; State *v.* Waldrop, 73 S. C. 60, 52 S. E. 593; State *v.* Stockman, 82 S. C. 388, 64 S. E. 595, 129 Am. St. Rep. 888; State *v.* Brooks, 79 S. C. 144, 60 S. E. 518, 128 Am. St. Rep. 836, 15 Am. & Eng. Ann. Cas. 49, 17 L. R. A., N. S., 483.

Resisting unlawful arrest. State *v.* Davis, 53 S. C. 151, 31 S. E. 62; State *v.* Messervy, 86 S. C. 503, 68 S. E. 766.

An illegal arrest is but a trespass, and does not excuse a homicide, unless the killing is necessary in self-defense to prevent death or great bodily harm. State *v.* Byrd, 72 S. C. 104, 51 S. E. 542.

Resisting attack in dwelling by wife jointly with a trespasser. State *v.* Stevenson, 85 S. C. 247, 67 S. E. 239.

Provocation is not an element in self-defense. State *v.* Byrd, 52 S. C. 480, 30 S. E. 482.

Preparation for, and seeking difficulty, prevents plea of self-defense. State *v.* Cobb, 65 S. C. 324, 43 S. E. 654, 95 Am. St. Rep. 801.

The defendant must prove by the preponderance of the evidence that he had no other reasonably safe means of escape. State *v.* Andrews, 73 S. C. 257, 53 S. E. 423; State *v.* Foster, 66 S. C. 472, 45 S. E. 1; State *v.* Thrailkill, 71 S. C. 136, 50 S. E. 551.

Duty to retreat if it can be safely accomplished. State *v.* Rochester, 72 S. C. 194, 51 S. E. 685; State *v.* Waldrop, 73 S. C. 60, 52 S. E. 793; State *v.* Rowell, 75 S. C. 494, 56 S. E. 23.

Definition, in charge, of self-defense. State *v.* Bowers, 65 S. C. 207, 43 S. E. 656, 95 Am. St. Rep. 795; State *v.* Hutto, 66 S. C. 449, 45 S. E. 13; State *v.* Dean, 72 S. C. 74, 51 S. E. 524; State *v.* Ross, 75 S. C. 533, 55 S. E. 977; State *v.* Thompson, 68 S. C. 133, 46 S. E. 941; State *v.* Waldrop, 73 S. C. 60, 52 S. E. 793; State *v.* Miller, 73 S. C. 278, 53 S. E. 426, 114 Am. St. Rep. 82; State *v.* Williams, 76 S. C. 143, 56 S. E. 783; State *v.* Strother, 84 S. C. 503, 66 S. E. 877; State *v.* Coyle, 86 S. C. 81, 67 S. E. 24, 138 Am. St. Rep. 1022.

The test of necessity to kill. State *v.* Thompson, 76 S. C. 117, 56 S. E. 789; State *v.* McKeller, 85 S. C. 236, 67 S. E. 314; State *v.* Stockman, 82 S. C. 388, 64 S. E. 595, 129 Am. St. Rep. 888.

Striking in defense of another. State *v.* Cook, 78 S. C. 253, 59 S. E. 862, 125 Am. St. Rep. 788, 13 Am. & Eng. Ann. Cas. 1051, 15 L. R. A. N. S., 1013n; State *v.* Edwards, 68 S. C. 318, 47 S. E. 395; State *v.* Chastain, 85 S. C. 64, 67 S. E. 6.

Insanity:

Moral insanity or acting under mere uncontrollable impulse is no defense. State *v.* Alexander, 30 S. C. 74, 8 S. E. 440; State *v.* Levelle, 34 S. C. 120.

To be proved by preponderance of the evidence; not to be disproved beyond a reasonable doubt. State *v.* Stark, 1 Strob. 479; State *v.* Paulk, 18 S. C. 515; State *v.* Coleman, 20 S. C. 441; State *v.* Bundy, 24 S. C. 439; State *v.* Alexander, 30 S. C. 74, 8 S. E. 440.

If there is reasonable doubt as to the capacity to commit the crime, the defendant must be acquitted. State *v.* Coleman, 20 S. C. 441; State *v.* Bundy, 24 S. C. 439.

Voluntary drunkenness, of whatever degree, is no excuse for crime commited under its influence. State *v.* Bundy, 24 S. C. 439; State *v.* Driggers, 84 S. C. 526, 66 S. E. 1042, 137 Am. St. Rep. 855, 19 Am. & Eng. Ann. Cas. 1166.

Intoxication no excuse for crime. State *v.* Morgan, 40 S. C. 345, 18 S. E. 937; State *v.* Bundy, 24 S. C. 439; State *v.* Paulk, 18 S. C. 515.

It must appear that defendant was unable to recognize that the act was either morally or legally wrong. State *v.* McIntosh, 39 S. C. 97, 17 S. E. 446; State *v.* Lloyd, 85 S. C. 73, 67 S. E. 9; State *v.* Coyle, 86 S. C. 81, 67 S. E. 24, 138 Am. St. Rep. 1022; State *v.* Malloy, 79 S. C. 76, 60 S. E. 228.

Rebuttal of presumption as to insanity from commital to asylum. State *v.* Davis, 27 S. C. 609, 4 S. E. 567.

Insanity arising during conflict. State *v.* Coyle, 86 S. C. 81, 67 S. E. 24, 138 Am. St. Rep. 1022.

Alibi:

Not necessary that it should be proved beyond all reasonable doubt; clear preponderance of testimony sufficient. State *v.* Jackson, 36 S. C. 487, 15 S. E. 559.

Ignorance of Law:

A disturber of the peace cannot excuse himself from the charge of murder by showing ignorance of the authority, under the law, of the officer whom he killed, knowing him to be an officer. State *v.* Williams, 36 S. C. 493, 15 S. E. 554.

Accident:

Exercise of care. State *v.* Morgan, 40 S. C. 345, 18 S. E. 937.

Accidental killing is a negative defense, and the burden is on the State to prove that the killing was intentional. State *v.* McDaniel, 68 S. C. 304, 47 S. E. 384, 102 Am. St. Rep. 661; State *v.* Clardy, 73 S. C. 341, 53 S. E. 493; State *v.* Mack, 77 S. C. 388, 57 S. E. 1107.

Duress:

"A mere threat by another to take one's life, with nothing more, does not amount to a sufficient excuse for such an one to commit homicide." State *v.* Howard, 35 S. C. 197, 14 S. E. 481.

EVIDENCE—

As to motive. State *v.* Posey, 4 Strob. 142; State *v.* Coleman, 20 S. C. 441; State *v.* Aughtry, 49 S. C. 286, 26 S. E. 619; State *v.* Andrews, 73 S. C. 257, 53 S. E. 423; State *v.* Stukes, 73 S. C. 386, 53 S. E. 643; State *v.* Kennedy, 85 S. C. 146, 67 S. E. 152.

Motive need not be proved, intent is sufficient. State *v.* Workman, 39 S. C. 151, 17 S. E. 694; State *v.* Thrailkill, 73 S. C. 314, 53 S. E. 482.

As to previous difficulties. State *v.* Adams, 68 S. C. 421, 47 S. E. 676; State *v.* Gilliam, 66 S. C. 419, 45 S. E. 5; State *v.* Thrailkill, 71 S. C. 136, 50 S. E. 551; State *v.* McDaniel, 68 S. C. 304, 47 S. E. 384, 102 Am. St. Rep. 661.

Of express malice makes the killing murder. State *v.* Sisson, 3 Brev. 59.

Of express malice against third person in whose stead deceased killed by mistake. State *v.* Kennedy, 85 S. C. 146, 67 S. E. 152.

Law presumes malice, but where all the facts come out the State must prove it. State v. Jones, 29 S. C. 202, 7 S. E. 296.

What declarations of deceased are admissible. State *v.* Freeman, 1 Speer 57.

What declarations are inadmissible. State *v.* Lindsay, 82 S. C. 486, 63 S. E. 1064, 1135.

When defendant proves declaration of deceased looking to suicide, the State can prove reasons assigned by him. State *v.* Crank, 2 Bail. 66.

Self-serving declarations of defendant inadmissible. State *v.* Dean, 72 S. C. 74, 51 S. E. 524; State *v.* Adams, 68 S. C. 421, 47 S. E. 676; State *v.* Avant, 85 S. C. 570, 67 S. E. 908.

Dying declarations are admissible. State *v.* Ferguson, 2 Hill 619; State *v.* Quick, 15 Rich. 342; State *v.* McEvoy, 9 S. C. 208; State *v.* Nance, 25 S. C. 168.

Those of one of two killed by poison admissible against defendant on trial for murder of the other. State *v.* Terrill, 12 Rich. 321.

Declarant must have no hope of life, and the circumstances of the death must be the subject of the declaration. State *v.* McEvoy, 9 S. C. 212; State *v.* Washington, 13 S. C. 458; State *v.* Gill, 14 S. C. 415; State *v.* Johnson, 26 S. C. 152, 1 S. E. 510; State *v.* Belton, 24 S. C. 185; State *v.* Nance, 25 S. C. 168; State *v.* Wyse, 32 S. C. 45, 10 S. E. 612; State *v.* Bradley, 34 S. C. 136, 13 S. E. 315; State *v.* Head, 60 S. C. 516, 39 S. E. 6; State *v.* Jaggers, 58 S. C. 41, 36 S. E. 434; State *v.* Lee, 58 S. C. 335, 36 S. E. 706; State *v.* Faile, 43 S. C. 52, 20 S. E. 798.

Hope that declarant will live until next day does not render declaration inadmissible. State *v.* McCoomer, 79 S. C. 63, 60 S. E. 237.

Not inadmissible because under oath. State *v.* Talbert, 41 S. C. 526, 19 S. E. 852.

The whole declaration admitted. State *v.* Petsch, 43 S. C. 132, 20 S. E. 993.

The fact that physician did not think the declarant would die does not affect the testimony. State *v.* Johnson, 20 S. C. 155.

Declaration after wound, but not in face of death, not admissible. State *v.* Bodie, 33 S. C. 117, 11 S. E. 624.

Of wife, on trial of husband, for murder. State *v.* Belcher, 13 S. C. 459.

Dying declaration cannot be impeached by proving other statements of the deceased made not under oath, nor shadow of impending death. State *v.* Taylor, 56 S. C. 360, 34 S. E. 939; State *v.* Banister, 35 S. C. 290, 14 S. E. 678; State *v.* Stuckey, 56 S. C. 576, 35 S. E. 263.

Declaration as part of *res gestae*. State *v.* Arnold, 47 S. C. 9, 24 S. E. 926.

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Defendant's previous conduct or state of mind. State *v.* Brooks, 79 S. C. 144, 60 S. E. 518, 128 Am. St. Rep. 836, 15 Am. & Eng. Ann. Cas. 49, 17 L. R. A. N. S., 483; State *v.* Miller, 73 S. C. 277, 53 S. E. 426, 114 Am. St. Rep. 82; State *v.* Lee, 85 S. C. 101, 67 S. E. 141, 147 Am. St. Rep. 869; State *v.* Smalls, 73 S. C. 516, 53 S. E. 976; State *v.* Springfield, 86 S. C. 318, 68 S. E. 563; State *v.* Thrailkill, 73 S. C. 314, 53 S. E. 482; State *v.* Gilliam, 66 S. C. 419, 45 S. E. 5.

Acts as *res gestae*. State *v.* Hunter, 82 S. C. 153, 63 S. E. 685.

As to Character:

Reputation for good order may be considered by jury. State *v.* Barth, 25 S. C. 175; State *v.* Brown, 34 S. C. 41, 12 S. E. 662.

Not limited in its effect to doubtful cases. State *v.* Barth, 25 S. C. 175.

Testimony as to reputation of deceased. State *v.* Miller, 73 S. C. 280, 54 S. E. 426, 114 Am. St. Rep. 82; State *v.* Thrailkill, 71 S. C. 136, 50 S. E. 551.

Evidence of reputation irrelevant where only defence is accidental homicide. State *v.* McDaniel, 68 S. C. 304, 47 S. E. 384, 102 Am. St. Rep. 661.

Of general bad character, not admissible. State *v.* Smith, 12 Rich. 430; State *v.* Turner, 29 S. C. 34. 6 S. E. 891.

Violence of character admissible if probably known to prisoner or there were sufficient reasons to suppose that they were known to him. State *v.* Smith, 12 Rich. 430; State *v.* Turner, 29 S. C. 34, 6 S. E. 891.

Even particular acts of violence known to the prisoner and reasonably connected in point of time with the killing may be shown. State *v.* Smith, 12 Rich. 430.

But not where unconnected in point of time with the fatal rencontre so as to produce reasonable apprehension of danger. State *v.* Andrews, 73 S. C. 257, 53 S. E. 423; State *v.* Dean, 72 S. C. 74, 51 S. E. 524.

Reasonable Doubt:

State must prove its case beyond a reasonable doubt. State *v.* Senn, 32 S. C. 392, 11 S. E. 292; State *v.* Bodie, 33 S. C. 117, 11 S. E. 624; State *v.* Merriman, 34 S. C. 16, 12 S. E. 619.

Defendant entitled to benefit of doubt upon the whole testimony. State *v.* Bodie, 33 S. C. 117, 11 S. E. 624; State *v.* Kibler, 79 S. C. 171, 60 S. E. 438; State *v.* Reeder, 72 S. C. 223, 51 S. E. 701; State *v.* Stockman, 82 S. C. 389, 64 S. E. 595, 129 Am. St. Rep. 888; State *v.* Hutto, 66 S. C. 449, 45 S. E. 13; State *v.* Lindsay, 82 S. C. 486, 63 S. E. 1064; State *v.* Moss, 77 S. C. 391, 57 S. E. 1098; State *v.* Hampton, 79 S. C. 178, 60 S. E. 669; State *v.* Gadsden, 70 S. C. 430, 50 S. E. 16; State *v.* Dawson, 85 S. C. 234, 67 S. E. 313.

But it must be well founded doubt. State *v.* Bodie, 33 S. C. 117, 11 S. E. 624.

Special Defense:

Must be proved by preponderance of testimony. State *v.* Bodie, 33 S. C. 117, 11 S. E. 624; State *v.* Strother, 84 S. C. 503, 66 S. E. 877; State *v.* Way, 76 S. C. 1, 56 S. E. 563.

In order to show a previous trial, record should be introduced. State *v.* Andrews, 73 S. C. 257, 53 S. E. 423.

The plea of self-defense may be sustained by testimony produced by the State. State *v.* Moss, 77 S. C. 391, 57 S. E. 1098.

If defendant admits voluntary homicide, the burden is on him to show lawful excuse or justification. State *v.* Brown, 79 S. C. 390, 60 S. E. 945.

Insanity:

Physicians cannot give their opinions as to insanity from testimony given, but can do so on similar case stated. State *v.* Coleman, 20 S. C. 441.

Standard authors on the subject may be read to the jury. *Ib.*

Judge having fully instructed the jury as to the law of insanity and their duty to acquit the prisoner if insane when he committed the homicide, he did not err in refusing to instruct them that the Court was authorized to send the prisoner to the Asylum if found to be *non compos.* State *v.* Robinson, 27 S. C. 615, 4 S. E. 570.

Circumstantial Evidence:

Conviction on, is proper. But the circumstances should be proved to entire satisfaction of jury, and when established should point conclusively to the defendant as the guilty party, and must be inconsistent with any other reasonable hypothesis. State *v.* Anderson, 20 S. C. 581; State *v.* Milling, 25 S. C. 16; State *v.* Sanders, 75 S. C. 409, 56 S. E. 35.

Case of circumstantial evidence. State *v.* Boyleston, 84 S. C. 574, 66 S. E. 1047; State *v.* Hudson, 66 S. C. 394, 44 S. E. 968, 97 Am. St. Rep. 768; State *v.* Jackson, 68 S. C. 53, 46 S. E. 538; State *v.* Langford, 74 S. C. 460, 55 S. E. 120; State *v.* Gillis, 73 S. C. 318, 53 S. E. 487, 114 Am. St. Rep. 95, 6 Am. & Eng. Ann. Cas. 993, 5 L. R. A., N. S., 571n; State *v.* Stukes, 73 S. C. 386, 53 S. E. 643; State *v.* Tedder, 83 S. C. 437, 65 S. E. 449.

Concealment of death of bastard child. State *v.* Love, 1 Bay 167.

Charge as to circumstantial evidence. State *v.* Langford, 74 S. C. 462, 55 S. E. 120.

Footprints as evidence. State *v.* Langford, 74 S. C. 462, 55 S. E. 120; State *v.* Sanders, 75 S. C. 410, 56 S. E. 35; State *v.* Wideman, 68 S. C. 119, 46 S. E. 769.

Confessions:

Admissions by defendant. State *v.* Miller, 73 S. C. 277, 53 S. E. 426, 114 Am. St. Rep. 82.

Must be voluntary, not induced by fear or hope improperly excited. State *v.* Howard, 35 S. C. 197, 14 S. E. 481; State *v.* Carson, 36 S. C. 524, 15 S. E. 588; State *v.* Workman, 15 S. C. 540; State *v.* Moorman, 27 S. C. 22, 2 S. E. 621; State *v.* Henderson, 74 S. C. 477, 55 S. E. 117.

No warning that it would be used against defendant is necessary to render it admissible. State *v.* Baker, 58 S. C. 111, 36 S. E. 501.

Corroboration of. State *v.* Derrick, 44 S. C. 344, 22 S. E. 337; State *v.* Middleton, 69 S. C. 72, 48 S. E. 35.

Confession of one cannot be used against other defendant. State *v.* Anderson, 24 S. C. 109; State *v.* Adams, 68 S. C. 421, 47 S. E. 676; State *v.* Thomas, 75 S. C. 477, 55 S. E. 893.

Two prisoners being tried for the same murder, their separate written statements so far as charging each the other with the homicide without implicating himself, was improperly received. State *v.* Carson, 36 S. C. 524, 15 S. E. 588.

Confessions generally. State *v.* Crank, 2 Bail. 66; State *v.* Kirby, 1 Strob. 155; State *v.* Clark, 4 Strob. 311; State *v.* Veigneur, 5 Rich. 391; State *v.* Motley, 7 Rich. 327; State *v.* Gossett, 9 Rich. 428; State *v.* Clayton, 11 Rich. 581; State *v.* Cook, 15 Rich. 29; State *v.* Branham, 13 S. C. 369; State *v.* Dodson, 14 S. C. 628; State *v.* Workman, 15 S. C. 540; State *v.* Dodson, 16 S. C. 453; State *v.* Shorter, 85 S. C. 170, 67 S. E. 131.

Confidential Communication:

Where an accomplice testifies as State's witness, his confidential communications made by him to his attorney cannot be disclosed by the attorney as a witness. State *v.* James, 34 S. C. 49, 12 S. E. 657.

While husband cannot be compelled to disclose the confidential communications of his wife, yet having voluntarily told part of a communication he must disclose the whole. State *v.* Turner, 36 S. C. 534, 15 S. E. 602.

Expert Testimony:

State *v.* Coleman, 20 S. C. 452; State *v.* Senn, 32 S. C. 392, 11 S. E. 292; State *v.* Bradley, 34 S. C. 136, 13 S. E. 315; State *v.* Milling, 35 S. C. 16, 14 S. E. 284; State *v.* Foote, 58 S. C. 218, 36 S. E. 551; State *v.* Johnson, 66 S. C. 23, 44 S. E. 58.

Experimental testimony. State *v.* Avant, 85 S. C. 574, 67 S. E. 908.

Threats:

Statements not amounting to threats. State *v.* Thrailkill, 71 S. C. 136, 50 S. E. 551; State *v.* Thompson, 76 S. C. 116, 56 S. E. 789.

Threat reasonably connected in point of time with the killing may be received. State *v.* Smith, 12 Rich. 430; State *v.* Jackson, 32 S. C. 27, 10 S. E. 769; State *v.* Campbell, 35 S. C. 28, 14 S. E. 292.

Threats by third party, connected with transaction or difficulty. State *v.* Gaylord, 70 S. C. 416, 50 S. E. 20.

Uncommunicated threats sometimes competent. State *v.* Bodie, 33 S. C. 117, 11 S. E. 624.

One month before killing considered reasonable time. State *v.* Campbell, 35 S. C. 29, 14 S. E. 292.

But at the time of the homicide the deceased must have made some demonstration of an intention to execute his threats. State *v.* Jackson, 32 S. C. 27, 10 S. E. 769.

Improperly admitted as in reply. State *v.* Jaggers, 58 S. C. 41, 36 S. E. 434.

A mere threat no excuse for committing homicide. State *v.* Howard, 35 S. C. 197, 14 S. E. 481.

Threats after homicide and bad blood between prisoner and family of deceased may be proved. State *v.* Anderson, 26 S. C. 599, 2 S. E. 699.

Prisoner as Witness:

Subject to cross-examination like other witnesses. State *v.* Merriman, 34 S. C. 16, 12 S. E. 619; State *v.* Turner, 36 S. C. 534, 15 S. E. 602; State *v.* Kennedy, 85 S. C. 146, 67 S. E. 152; State *v.* Boyleston, 85 S. C. 574, 66 S. E. 1047; State *v.* Rowell, 75 S. C. 494, 56 S. E. 23; State *v.* Kenny, 77 S. C. 236, 57 S. E. 859; State *v.* Mills, 79 S. C. 187, 60 S. E. 664; State *v.* Avant, 85 S. C. 570, 67 S. E. 908. Defendant required to demonstrate how shooting occurred. State *v.* Hunter, 82 S. C. 157, 63 S. E. 685.

Effect of good character considered. State *v.* Edwards, 13 S. C. 32.

His character may be impeached. State *v.* Merriman, 34 S. C. 18, 12 S. E. 619.

His contrary statement to others may be proved. State *v.* Merriman, 34 S. C. 18, 12 S. E. 619.

Contradiction of his declaration as to his actions the night before the homicide. State *v.* Hasty, 76 S. C. 105, 56 S. E. 669.

Improper for Solicitor to comment on failure of defendant to testify, but not reviewable error when Judge corrected the inference suggested. State *v.* Howard, 35 S. C. 197, 14 S. E. 481.

Testimony at Coroner's inquest is inadmissible against the witness under a charge afterwards preferred against them of the murder of the deceased person. State *v.* Senn, 32 S. C. 392, 11 S. E. 292.

Acts and declarations of conspirators. State *v.* James, 34 S. C. 49, 12 S. E. 657. Declaration of coconspirator after end of conspiracy. State *v.* Philips, 73 S. C. 236, 53 S. E. 370.

Where only two of the rioters were indicted, proof that the injury was inflicted by others of the rioters will sustain verdict against the two. State *v.* Jenkins, 14 Rich. 215.

Witnesses:

Wife of father competent on separate trial to testify against the son indicted with him. State *v.* Anthony, 1 McC. 285.

So is wife of one not on trial competent witness against his accomplices. State *v.* Drawdy, 14 Rich. 87.

Testimony as to immoral relations between witness and deceased inadmissible to discredit her testimony. State *v.* Hasty, 76 S. C. 105, 56 S. E. 669.

Relevancy of testimony as to defendant's intoxication. State *v.* Rowell, 75 S. C. 494, 56 S. E. 23.

Parol evidence of written instrument to show a collateral fact. State *v.* Waldrop, 73 S. C. 60, 52 S. E. 793.

The life of an infant alleged to have been murdered must be proved. State *v.* O'Neall, 79 S. C. 571, 60 S. E. 1121.

The *corpus delicti* does not embrace the identity of the person charged with agency causing the death. State *v.* Taylor, 56 S. C. 360, 34 S. E. 939.

It does embrace the identity of the victim, but this may be shown by circumstantial evidence. State *v.* Martin, 47 S. C. 70, 25 S. E. 113.

A conviction may be based on the testimony of an accomplice. State *v.* Green, 48 S. C. 136, 26 S. E. 234; State *v.* Kennedy, 85 S. C. 146, 67 S. E. 152.

Testimony of principal against accessory. State *v.* Kennedy, 85 S. C. 146, 67 S. E. 152.

Use of testimony given on a former trial by a deceased witness. State *v.* Milam, 65 S. C. 321, 43 S. E. 677.

TRIAL—

Judge may permit jury to disperse during trial. State *v.* Belcher, 13 S. C. 46.

Severance. State *v.* Kenny, 77 S. C. 237, 57 S. E. 859. Polling jury. State *v.* Daniel, 77 S. C. 53, 57 S. E. 639.

Conduct of:

Argument of counsel is restricted by general rules under control of the trial Judge, but if improper statements are made by counsel in a law case they can be reviewed in the Supreme Court only by appeal from some ruling of the Judge thereon. State *v.* Turner, 36 S. C. 534, 15 S. E. 602.

Admission of testimony in reply is largely in the discretion of the Circuit Judge. State *v.* Harmon, 79 S. C. 83, 60 S. E. 230; State *v.* Johnson, 66 S. C. 23, 44 S. E. 58; State *v.* Thompson, 68 S. C. 133, 46 S. E. 94.

Remedy against incompetent testimony brought out without objection is motion to strike out. State *v.* Adams, 68 S. C. 421, 47 S. E. 676.

Laying foundation for contradiction of witnesses. State *v.* Hampton, 79 S. C. 180, 60 S. E. 669; State *v.* Suber, 82 S. C. 159, 63 S. E. 684.

Leading questions permitted in discretion of Court. State *v.* Williams, 76 S. C. 134, 56 S. E. 783.

Examination of witness by presiding Judge. State *v.* Driggers, 84 S. C. 526, 66 S. E. 1042, 137 Am. St. Rep. 855, 19 Am. & Eng. Ann. Cas. 1166; State *v.* Anderson, 85 S. C. 229, 67 S. E. 237, 137 Am. St. Rep. 887.

Charge to jury:

Not necessary to charge as to a defense, where there is no evidence to support it. State *v.* Anderson, 85 S. C. 230, 67 S. E. 237, 137 Am. St. Rep. 887; State *v.* Driggers, 84 S. C. 526, 66 S. E. 1042, 137 Am. St. Rep. 855, 19 Am. & Eng. Ann. Cas. 1166; State *v.* Hutto, 66 S. C. 449, 45 S. E. 13; State *v.* Waldrop, 73 S. C. 60, 52 S. E. 793; State *v.* Adams, 68 S. C. 427, 47 S. E. 676; State *v.* Dodson, 76 S. C. 464.

An exception to failure to charge should be based upon a request. State *v.* Boyleston, 84 S. C. 574, 66 S. E. 1047.

Charge as to circumstantial evidence. State *v.* Tedder, 83 S. C. 437, 65 S. E. 449; State *v.* Langford, 74 S. C. 460, 55 S. E. 120; State *v.* Sanders, 75 S. C. 410, 56 S. E. 35.

No error to state to jury admitted facts. State *v.* Nickels, 65 S. C. 169, 43 S. E. 521; State *v.* Johnson, 66 S. E. 23, 44 S. E. 58.

That a party denying a fact offers no evidence against it does not make such fact an admitted or undisputed fact. State *v.* Johnson, 85 S. C. 265, 67 S. E. 453.

Judge must not allow his opinion as to the facts of the case, either inadvertently, intentionally or otherwise, to reach the jury. State *v.* White, 15 S. C. 381; State *v.* Jenkins, 21 S. C. 585; State v. Addy, 28 S. C. 4, 4 S. E. 814; State *v.* Norton, 28 S. C. 572, 6 S. E. 820; State *v.* James, 31 S. C. 218, 9 S. E. 844; State *v.* Williams, 31 S. C. 238, 9 S. E. 853; State *v.* Wyse, 32 S. C. 45, 10 S. E. 612; State *v.* Milling, 35 S. C. 16, 14 S. E. 284.

As to what is a charge upon the facts. State *v.* Summers, 19 S. C. 95; State *v.* Atterberry, 19 S. C. 597; State *v.* Jenkins, 21 S. C. 596; State *v.* James, 31 S. C. 218, 9 S. E. 844; State *v.* Milling, 35 S. C. 16, 14 S. E. 284; State *v.* Jackson, 36 S. C. 487, 15 S. E. 559; State *v.* Turner, 36 S. C. 534, 15 S. E. 602; State *v.* Thrailkill, 71 S. C. 136, 50 S. E. 551; State *v.* Sudduth, 74 S. C. 498, 54 S. E. 1013; State *v.* McDaniel, 68 S. C. 306, 47 S. E. 384, 102 Am. St. Rep. 661; State *v.* Lindsey, 68 S. C. 276, 47 S. E. 389; State *v.* Williams, 76 S. C. 144, 56 S. E. 783.

Generally erroneous to exclude from jury all questions of manslaughter. State *v.* Kirkland, 14 Rich. 230; State *v.* Jenkins, 21 S. C. 596; State *v.* Norton, 28 S. C. 572, 6 S. E. 820; State *v.* Turner, 29 S. C. 34, 6 S. E. 891; State *v.* Wyse, 32 S. C. 45, 10 S. E. 612.

Charges as to weight to be given to admissions by defendant. State *v.* Shorter, 85 S. C. 170, 67 S. E. 131; or the weight to be given to any testimony. State *v.* Sowell, 85 S. C. 282, 67 S. C. 316; State *v.* Johnson, 66 S. C. 36, 44 S. E. 58. This is to be avoided in stating a rule of evidence. See State *v.* Philips, 73 S. C. 236, 53 S. E. 370.

But if there be no testimony to raise the question of self-defence or manslaughter the Judge may so charge. State *v.* Summers, 19 S. C. 94; State v. Nance, 25 S. C. 168.

But not material when verdict is "guilty of manslaughter." State *v.* Jenkins, 21 S. C. 596.

Also erroneous to instruct jury that prisoner was guilty if he knew right from wrong, when insanity was not the only defense. State *v.* Leonard, 32 S. C. 201, 10 S. E. 1007.

Also to charge that good character should have great weight. State *v.* Brown, 34 S. C. 41, 12 S. E. 662.

An omission to charge any particular proposition of law unless requested is not a reversible error when the principle is otherwise substantially charged. State *v.* Anderson, 24 S. C. 113; State *v.* Prater, 26 S. C. 198, 2 S. E. 108; State *v.* Turner, 29 S. C. 34, 6 S. E. 891; State *v.* Murrell, 33 S. C. 83, 11 S. E. 682; State *v.* Milling, 35 S. C. 16, 14 S. E. 284; State *v.* Chiles, 58 S. C. 47, 36 S. E. 496; State *v.* Smith, 56 S. C. 378, 34 S. E. 657, 57 S. C. 489, 35 S. E. 727.

Or to instruct the jury in the precise terms in which a request is presented. State *v.* Jacobs, 28 S. C. 29, 4 S. E. 799.

No error to tell jury when asked by them that prisoner could be recommended to mercy, or in failing to instruct them that such recommendation could not affect sentence. State *v.* Gill, 14 S. C. 415; State *v.* Murrell, 33 S. C. 83, 11 S. E. 682.

No error to omit to instruct jury that the Court could commit to Asylum after verdict of *non compos mentis.* State *v.* Robinson, 27 S. C. 615, 4 S. E. 570.

Nor as to the effect of recommendation to mercy where there is no request to do so. State *v.* Owens, 44 S. C. 324, 22 S. E. 244; State *v.* Adams, 68 S. C. 421, 47 S. E. 676; State *v.* Jones, 74 S. C. 456, 54 S. E. 1017.

Instructing jury not to be afraid to perform their duty. State *v.* Malloy, 79 S. C. 76, 60 S. E. 228.

Request emphasizing right of jury to accept defendant's statement, erroneous. State *v.* Thrailkill, 71 S. C. 136, 50 S. E. 551.

Statement of facts in hypothetical form permissible. State *v.* Way, 76 S. C. 91, 56 S. E. 653; State *v.* Duncan, 86 S. C. 370, 68 S. E. 684.

Inadvertence reference to undisputed fact immaterial. State *v.* Ayers, 86 S. C. 426, 68 S. E. 625.

SECOND TRIAL—

Defendant properly put on second trial when former conviction was simply reversed by the Supreme Court. State *v.* Stephens, 13 S. C. 285; State *v.* Wise, 33 S. C. 582, 12 S. E. 556.

Constitution of 1868 exempted from second trial only where there had been an acquittal. State *v.* Shirer, 20 S. C. 404; State *v.* Jenkins, 20 S. C. 353; State *v.* Briggs, 27 S. C. 80, 2 S. E. 854; State *v.* Wise, 33 S. C. 582, 12 S. E. 556; otherwise under Constitution of 1895.

Jeopardy of life defined. State *v.* McKee, 1 Bail, 651.

No discharge for, because one panel of jurors was exhausted and trial adjourned over until next week. State *v.* Briggs, 27 S. C. 80, 2 S. E. 854.

Assault and battery with intent to kill is a misdemeanor. State *v.* Welch, 29 S. C. 4, 6 S. E. 894.

Embraces all the elements of murder except the death. State *v.* White, 21 S. C. 597.

By attempt to poison. State *v.* Glover, 27 S. C. 602, 4 S. E. 564.

Necessity of act, as a defense. State *v.* McGreer, 13 S. C. 464; State *v.* Littlejohn, 33 S. C. 599, 11 S. E. 638.

Charge containing declaration of law as to how far the law permits a husband to go in punishing a man committing adultery with his wife. State *v.* Chiles, 58 S. C. 47, 36 S. E. 496.

Where the testimony for the state was such that the defendant relied upon it to show an alibi, and offered no testimony, it was error for the Judge to charge that the burden of proving the alibi was upon defendant. State *v.* Atkins, 49 S. C. 481, 27 S. E. 484.

On indictment for assault and battery with intent to kill defendant may be convicted of an assault of a high and aggravated nature. State *v.* Robinson, 31 S. C. 453, 10 S. E. 101; State v. Lightsey, 43 S. C. 114, 20 S. E. 975.

What constitutes an assault. *Ib.*

(2) § 2. Punishment for Murder.—Whoever is guilty of murder shall suffer the punishment of death: *Provided, however,* That in each case where the prisoner is found guilty of murder, the jury may find a special verdict recommending him or her to the mercy of the Court, whereupon the punishment shall be reduced to imprisonment in the Penitentiary with hard labor during the whole lifetime of the prisoner.

Crim. Code, '12, § 136; Crim. Code, '02, § 109; G. S. 2454; R. S. 109; 1868, XIV, 175; 1894, XXI, 785.

(3) § 3. Killing by Stabbing, Etc.—Whoever shall stab or thrust any person or persons that has not then any weapon drawn, or that has not then first stricken the party which shall so stab or thrust, so as the person or persons so stabbed or thrust shall thereof die within the space of six months then next following, although it cannot be proved that the same was done of malice aforethought, yet the party so offending, and being thereof convicted, shall suffer death as in the case of wilful murder: *Provided,* That nothing herein contained shall extend to any person who shall kill any person or persons in self-defense, or by misfortune, or in any other manner than as aforesaid; nor to any person who, in keeping and preserving the peace, shall chance to commit manslaughter, so as the said manslaughter be not committed wittingly, willingly, and of purpose, under pretext and color of keeping the peace; nor shall extend to any person who, in chastising or correcting his child, shall, besides his or their intent and purpose, chance to commit manslaughter.

Crim. Code, '12, § 137; Crim. Code, '02, § 110; G. S. 2455; R. S. 110; 1712, II, 507.

(4) § 4. Death From Obstructing Railroad.—Where the death of any human being results from any obstruction placed upon a railroad, as described in Section 14 of this Chapter, the person placing or causing to be placed such obstruction or impediment on said railroad shall be adjudged guilty of murder, and shall suffer death.

Crim. Code, '12, § 138; Crim. Code, '02, § 111; G. S. 2456; R. S. 111; 1879, XVIII, 101.

(5) § 5. Killing by Poison.—All wilful killing by poisoning of any person shall be adjudged, taken, and deemed wilful murder, of malice *prepense*, and the offender therein, his aiders, abetters, procurers, and counsellors, shall suffer death, as in other cases of wilful murder.

Crim. Code, '12, § 139; Crim. Code, '02, § 112; G. S. 2457; R. S. 112; 1712, II, 479.

(6) § 6. Killing in a Duel.—In case any person shall kill another in any duel with a deadly weapon, or shall inflict a wound or wounds upon any person in any duel, so as the person so wounded shall thereof die within the space of six months then next following, such person so killing another, or so wounding any person whereby such person so wounded shall die as aforesaid, being thereof convicted, shall suffer death, as in the case of wilful murder.

Crim. Code, '12, § 140; Crim. Code, '02, § 113; G. S. 2458; R. S. 113; 1880, XVII, 501.

(7) § 7. Rape.—Whosoever shall ravish a woman, married, maid, or other, where she did not consent, either before or after, and likewise where a man ravisheth a woman with force, although she consent after, he shall be deemed guilty of rape, and shall, upon conviction, suffer death in the same form and manner as is now provided by law for wilful murder: *Provided, however,* That in each case where a prisoner is found guilty, the jury may find a special verdict recommending him to the mercy of the Court, whereupon the punishment shall be reduced to imprisonment in the Penitentiary with hard labor as provided in Section (8).

Crim. Code, '12, § 141; Crim. Code, '02, § 114; G. S. 2459; R. S. 114; 1712, II, 422; 1869, XIV, 175; 1878, XVI, 631.

This is a different offense from that in § 9, but under an indictment for rape at common law, it is competent to show the age of the victim on the issue of force or consent. State v. Haddon, 49 S. C. 308, 27 S. E. 194.

And the Constitution, Art. III, §33, furnishes the rule of evidence as to want of consent where the victim is under the age of fourteen years.

Verdict of guilty of an assault with intent to ravish sustained on an indictment containing counts under both § § 7 and 9, where no motion was made to elect. State *v.* Gilchrist, 54 S. C. 160, 31 S. E. 866.

Deposition of injured party since deceased, made for warrant and in absence of prisoner, not admissible. State *v.* Hill, 2 Hill 607.

If defendant testifies in his own behalf his general reputation for veracity may be assailed. State *v.* Robertson, 26 S. C. 117, 1 S. E. 443.

Admitting connection while denying the rape is not affirmative defense, but leaves the burden of proof on the State. State *v.* Taylor, 57 S. C. 483, 35 S. E. 729.

Testimony as to condition of victim; force used. State *v.* Sudduth, 52 S. C. 488, 30 S. E. 403.

Evidence as to identification of persons by victim. State *v.* Johnson, 85 S. C. 265, 67 S. E. 453.

As to procedure on trials for rape or assault with intent to ravish, see Procedure Volume.

Evidence supporting verdict of guilty of assault with intent to ravish. State *v.* Johnson, 84 S. C. 45, 65 S. E. 1023; State *v.* Butler, 85 S. C. 45, 66 S. E. 1041.

Conviction for assault and battery of high and aggravated nature. State *v.* Dalby, 86 S. C. 367, 68 S. E. 633.

(8) § 8. Punishment for Rape, or Assault With Intent to Ravish.—Any person convicted of rape or assault with intent to ravish shall

suffer death unless the jury shall recommend to the mercy of the Court, in which event the defendant shall be confined at hard labor in the State Penitentiary for a term not exceeding forty years or less than five years, at the discretion of the presiding Judge.

Crim. Code, '12, § 142; 1909, XXVI, 206.

Act constitutional, State *vs*: Butler 85 S. C. 45, 66 S. E. 1041.

(9) § 9. Carnal Knowledge of Woman Child—Age of Consent—Special Verdicts—Penalties.—If any person shall unlawfully and carnally know and abuse any woman child under the age of sixteen years, every such unlawful and carnal knowledge shall be felony, and the offender thereof being duly convicted shall suffer as for a rape: *Provided however,* That in any case where the woman or child is over the age of ten years and the prisoner is found guilty the jury may find a special verdict recommending him to the mercy of the Court, whereupon the punishment shall be reduced to imprisonment in the Penitentary for a term not exceeding fourteen years, at the discretion of the Court: *Provided, further,* That in any case where the woman or child is over the age of fourteen (14) years and under the age of sixteen (16) years and the prisoner is found guilty, the punishment shall be in the discretion of the Court, not exceeding five (5) years imprisonment: *Provided, however,* That in cases where the defendant is under eighteen years of age and the woman-child is above the age of fourteen (14) years, previous unchastity may be defensively shown, and if such want of chastity be found by a special verdict of the jury, the punishment imposed by the Court shall not exceed one year's imprisonment, or a fine of not more than five hundred ($500.00) dollars, alternatively awarded.

Crim. Code, '12, § 143; Crim. Code, '02; § 115; G. S. 2460; R. S. 115; 1712, II, 498; 1896, XXII, 223; Const., 1895, Art, 3 § 33. 1921, XXXII, 282.

This is a statutory offence, distinct from rape. State *v.* Haddon, 49 S. C. 308, 27 S. E. 194; State *v.* Coleman, 54 S. C. 162, 31 S. E. 866; and a boy between seven and fourteen years of age may be convicted of it, if the physical capacity be shown. State *v.* Coleman, *supra.*

As to necessity to show the age of the woman child under this Statute, see State *v.* Haddon, *supra.*

(10) § 10. Manslaughter.—Manslaughter, or the unlawful killing of another without malice, express or implied, shall be punishable by hard labor in the Penitentiary, not exceeding thirty years nor less than two years.

Crim. Code, '12, § 148; Crim. Code, '02, § 120; G. S. 2465; R. S. 120; 1869, XIV, 175.

Defined:

Is the taking the life of another in sudden heat and passion, under reasonable provocation, without premeditation or malice. State v. Ferguson, 2 Hill 619; State *v.* Smith, 10 Rich. 341; State *v.* Jacobs, 28 S. C. 29; 4 S. E. 799.

The provocation must be such as to provoke a high degree of resentment, and ordinarily induce a great degree of violence when compared with those of a slight and trivial character from which a great degree of violence does not usually follow. State *v.* Ferguson, 2 Hill 619.

No mere words, however insulting, can excuse the killing and reduce the defense to manslaughter. State *v.* Jacobs, 28 S. C. 29, 4 S. E. 799; State *v.* Levelle, 34 S. C. 120, 13 S. E. 319; State *v.* Davis, 50 S. C. 405, 27 S. E. 905; State *v.* Gilliam, 66 S. C. 423, 45 S. E. 6.

But no provocation, however grievious, will excuse from the crime of murder, where, from the weapons used or the manner of assault, an intention to kill or do some bodily harm is manifest. State *v.* Ferguson, 2 Hill 619; State *v.* Way, 38 S. C. 333, 17 S. E. 39.

An officer shooting a person charged with a misdemeanor, and fleeing to avoid arrest, guilty of manslaughter. State *v.* Sudduth, 74 S. C. 498, 54 S. E. 1013.

A father killing a man whom he detects in his home in illicit intercourse with daughter, a member of his family, would be guilty of manslaughter. State *v.* Emerson, 78 S. C. 83, 58 S. E. 974.

Whether the killing was under sudden heat and passion, or from a settled, deliberate purpose, must be concluded by the jury upon the facts of the case. State *v.* Ford, 1 Speer 154; State *v.* Wyse, 32 S. C. 45, 10 S. E. 612.

Where the orignial provocation, given shortly before the killing, was then sufficient to reduce the killing to manslaughter, the jury must inquire, not whether the suspension of reason under

such sudden heat and passion continued down to the moment of the killing, but whether the prisoner did cool, or was there time, all circumstances being considered, for a man or ordinary reason to have cooled. State *v.* McCants, 1 Speer 389; State *v.* Jacobs, 28 S. C. 29, 4 S. E. 799.

Any signs of deliberation or reflection would be evidence of cooling. State *v.* McCants, 1 Speer 389.

Distinction between murder and manslaughter. State *v.* Summer, 55 S. C. 34, 32 S. E. 771.

Manslaughter defined in Act of 1821 as the killing of a slave in sudden heat and passion, includes killing by or under excessive correction. State *v.* Fleming, 2 Strob. 464.

Killing by negligent use of deadly weapon is manslaughter. State *v.* Gilliam, 66 S. C. 423, 45 S. E. 6; State *v.* Tucker, 86 S. C. 211, 68 S. E. 523; State *v.* Revels, 86 S. C. 213, 68 S. E. 523.

CHARGE—

Where defendant is convicted of manslaughter, error in charging as to murder is eliminated. State *v.* Stuckey, 56 S. C. 576, 35 S. E. 263; State *v.* Robertson, 54 S. C. 147, 31 S. E. 868; State *v.* Richardson, 47 S. C. 18, 24 S. E. 1028; State *v.* Owens, 79 S. C. 125, 60 S. E. 305; State *v.* Henderson, 80 S. C. 165, 60 S. E. 314.

Charge properly defining manslaughter. State *v.* Lee, 79 S. C. 223, 60 S. E. 524; State *v.* Bowers, 65 S. C. 213, 43 S. E. 656, 95 Am. St. Rep. 795; State *v.* Hunter, 82 S. C. 158, 63 S. E. 685.

Whether the testimony indicates either murder or self-defense, and there is no testimony tending to show manslaughter, it is not error to omit to charge the law as to manslaughter. State *v.* Adams, 68 S. C. 427, 47 S. E. 676. If the testimony tends to show murder defendant cannot complain: if jury finds him guilty of manslaughter. State *v.* Perry, 78 S. C. 184, 59 S. E. 851; State *v.* Henderson, 80 S. C. 165, 60 S. E. 314.

If error to charge that defendants could not under certain circumstances be convicted of manslaughter only, not material when verdict was for manslaughter. State *v.* Jenkins, 21 S. C. 596.

All elements in manslaughter may be proved by circumstantial evidence. State *v.* Gillis, 73 S. C. 318, 53 S. E. 487, 114 Am. St. Rep. 95, 6 Am. & Eng. Ann. Cas. 993, 5 L. R. A., N. S., 571n.

Where a verdict of manslaughter, on an indictment for murder, is set aside on the defendant's motion, he may be retried for murder as well as for manslaughter. State *v.* Gillis, 73 S. C. 318, 53 S. E. 487, 114 Am. St. Rep. 95, 6 Am. & Eng. Ann. Cas. 993, 5 L. R. A., N. S., 571n.

Evidence sufficient to support verdict for manslaughter. State *v.* Suber, 82 S. C. 159, 63 S. E. 684.

SENTENCE—

If error only in sentence, defendant is not entitled to new trial. State *v.* Aultman, 23 S. C. 601.

Persons aiding and abetting in the commission of manslaughter are guilty of the crime. State *v.* Putman, 18 S. C. 177.

Sentence postponed to allow application for pardon. State *v.* Faink, 1 Bay 168.

Where the punishment is within the discretion of the trial Judge, as in cases of manslaughter, it is not error for him to hear, after conviction, affidavits in aggravation or mitigation of sentence. State v. Reeder, 79 S. C. 139, 60 S. E. 434, 14 Am. & Eng. Ann. Cas. 968.

(11) § 11. Administering or Attempting to Administer, Poison With Intent to Kill a Felony.—Whoever shall unlawfully and maliciously administer to, or attempt to administer to, or in any way aid or assist therein, or cause to be taken by any person, any poison or other destructive thing, with intent to kill such person, every such offender, and every person counselling, aiding or abetting such offender, shall be guilty of felony, and shall be punished by imprisonment in the Penitentiary not exceeding ten years nor less than two.

Crim. Code, '12, § 149; Crim. Code, '02, § 121; G. S. 2466; R. S. 121; 1859, XII, 832; 1898, XXII, 812.

This Section does not supersede the common law offense of assault and battery with intent to kill; and when a person, with intent to kill, administers to a little child a drug which he believes to be poisonous and of sufficient quanity to destroy life, such common law offense is complete, even though the dose is insufficient for the purpose intended. State *v.* Glover, 27 S. C. 602, 4 S. E. 564.

Quantity of poison immaterial. State *v.* Ready, 110 S. C. 177, 96 S. E. 287.

(12) § 12. As to Means to Cause Miscarriage, Abortion or Premature Labor—Punishment.—Any person who shall administer to any woman with child, or prescribe for any such woman, or suggest to or advise or procure her to take, any medicine, substance, drug or thing whatever, or who shall use or employ, or advise the use or employment of, any instrument or other means of force whatever, with intent thereby to cause or procure the miscarriage or abortion or premature labor of any such woman, unless the same shall have been necessary to preserve her life, or the life of such child, shall, in case the death of such child or of such woman results in whole or in part therefrom, be deemed guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the Penitentiary for a term not more than twenty years nor less than five years. But no conviction

shall be had under the provisions of this Section upon the uncorroborated evidence of such woman.

Crim. Code, '12, § 150; Crim. Code, '02, § 122; R. S. 122; 1883, XVIII, 547.

Administering through innocent agents; sending by mail. State *v.* Morrow, 40 S. C. 221, 18 S. E. 853. Sent from another State. *Ib.*

So much of the Act from which this Section was taken, as makes it an offense to advise the committing of an abortion, was held unconstitutional, as not being embraced in the title to that Act. State v. Fields, 68 S. C. 149, 46 S. E. 771. This objection to the Act has been removed by its re-enactment in the Code of Laws.

(13) § 13. Punishment for Placing Obstructions on Railroads.—If any person or persons shall by himself or others place, or cause to be placed, on the track or other part of the passage way of any railroads on which steam engines or hand cars are used, any timber, stone, or other obstruction, with intent to injure or impede the passage of any cars or means of conveyance, or shall in any other manner obstruct any engine or car passing upon such railroad, or endangers the safety of persons conveyed in or upon the same, or aids or assists therein, such person or persons shall be deemed guilty of felony, and, on being thereof convicted by due course of law, shall be punished by imprisonment in the Penitentiary for not exceeding thirty years, and fined in the discretion of the Court, except where the death of some human being results from such impediment, and in that case the offender shall be adjudged guilty of murder and shall suffer death: *Provided,* That nothing herein shall in any manner take away any right of action for damages for injuries to the person or property of any person or body corporate caused by any injury, obstruction, or damage done to any railroad or its buildings, tracks, or constructions.

Crim. Code, '12, § 151; Crim. Code, '02, § 123; G. S. 1520; R. S. 123; 1882, XVII, 109.

(14) § 14. Obstructing Railroad, Without Death Ensuing.—Any person who shall wilfully and maliciously place, or cause to be placed, on the track or other part of the passage way of any railroads, on which steam engines or hand cars are used, any timber, stone, or obstruction, with intent to injure or impede the passage of any cars or means of conveyance, shall be deemed guilty of felony, and, on being convicted thereof, shall be punished by imprisonment in the Penitentiary for not less than one nor more than thirty years, and fined in the discretion of the Court.

Crim. Code, '12, § 152; Crim. Code, '02, § 124; G. S. 2467; R. S. 124.

(15) § 15. Sending or Accepting Challenge to Fight.—Whoever shall challenge another to fight at sword, pistol, rapier, or any other deadly weapon, or who shall accept any such challenge, shall, for every such offense, on conviction thereof, be deprived of the right of suffrage, and be disabled from holding any office of honor or trust whatever in this State, and shall be imprisoned in the Penitentiary for a term not exceeding two years, at the discretion of the Court.

Crim. Code, '12, § 153; Crim. Code, '02, § 125; G. S. 2468; R. S. 125; 1880, XVII, 501.

INDICTMENT—

Will lie in this State for challenge to fight a duel in Georgia. State *v.* Taylor, 3 Brev. 243; State *v.* Cunningham, 2 Speer 246.

Or for a verbal challenge. State *v.* Strickland, 2 N. & McC. 181.

Or against the principal who sends challenge or fights. State *v.* Strickland, 2 N. & McC. 181; State *v.* Dupont, 2 McC. 334.

Or for any agreement to fight with loaded pistols and actually fighting. State *v.* Heriot, 1 McM. 126.

SENTENCE—
The disability to hold office, imposed by the Section, does not constitute a part of the sentence. State *v.* Dupont, 2 McC. 334.

(16) § 16. Carrying or Delivering Challenge.—Whoever shall willingly or knowingly carry or deliver any such challenge in writing, or verbally deliver any message intended as, or purporting to be, such challenge, or who shall be present at the fighting of any duel as a second or who shall aid or give countenance thereto, shall, for every such offense, on conviction thereof, be forever disabled from holding any office of honor or trust in this State, and shall be imprisoned in the Penitentiary for a term not exceeding two years, at the discretion of the Court, and shall be fined in a sum not less than five hundred dollars nor more than one thousand.

Crim. Code, '12, § 154; Crim. Code, '02, § 126; G. S. 2469; R. S. 126; 1880, XVII, 502.

(17) § 17. Misdemeanor to Point Pistol or Gun at Any Person.—It shall be unlawful for any person to present or point at any other person any loaded or unloaded firearm, and any one, on conviction therefor, shall be punished by fine or imprisonment, in the discretion of the Court: *Provided,* That nothing contained herein shall be construed to abridge the right of self-defense or to apply to theatricals or like performances.

Crim. Code, '12, § 162; 1910, XXVI, 694.

(18) § 18. Unlawful to Discharge Firearms at or Into Dwellings.—Any person who shall unlawfully discharge, or cause to be discharged, any firearms at or into any house or houses, occupied as a dwelling, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to either fine or imprisonment at hard labor, or both fine and imprisonment, in the discretion of the Court.

Crim. Code, '12, § 163; 1910, XXVI, 785.

Municipal ordinance against firing guns in town or city limits construed and upheld in State *v.* Johnson, 76 S. C. 39, 56 S. E. 544, 11 Am. & Eng. Ann. Cas. 721.

(19) § 19. Kidnapping Minor.—Any person who shall take or convey, or cause to be taken or conveyed, away, any minor, or person under the age of twenty-one years, from the possession of the parent or guardian, or procure and carry such minor without the limits of the State, without the consent of such parent or guardian, with the intent to secure a reward for the return of such minor, shall, upon conviction thereof, be imprisoned in the Penitentiary for the period of his or her natural life.

Crim. Code, '12, § 165; Crim. Code, '02, § 134; G. S. 2475; R. S. 132; 1871, XIV, 546; 1902, XXIII, 1096.

(20) § 20. Misdemeanor for Husband to Fail to Support Wife and Children.—Any able-bodied man who shall, without just cause or excuse, abandon or fail to supply the actual necessaries of life to his wife or to his minor, unmarried child or children dependent upon him, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned for a term not exceeding one year, or be liable to a fine not exceeding two hundred dollars: *Provided*, That if he, either before or after conviction, shall give bond, with one or more sureties, approved by the Clerk of the Court, in the sum of not less than $300, conditioned upon his supporting

and maintaining his said wife or said minor unmarried child or children, he shall not be imprisoned or the fine imposed until the condition of said bond is broken.

Crim. Code, '12, § 697; 1910, XXVI, 545.

(21) § 21. Illtreating Children, Apprentices, Etc.—Whoever, being legally liable, either as parent, guardian, master, or mistress, to provide for any child or children, apprentice or servant, idiot or helpless person, necessary food, clothing or lodging, shall wilfully and without lawful excuse refuse or neglect to provide the same, or shall unlawfully and maliciously do, or cause to be done, any bodily harm to any such child or children, apprentice, servant, idiot, or helpless person, so that the life of such child or children, apprentice, servant, idiot, or helpless person shall be endangered, or the health or comfort of such child or children, apprentice, servant, idiot, or helpless person shall have been, or is likely to be, permanently injured, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not less than two hundred dollars nor more than one thousand dollars, or to be imprisoned for any term not exceeding two years, with or without hard labor, one or both, at the discretion of the Court.

Crim. Code, '12, § 166; Crim. Code, '02, § 135; G. S. 2476; R. S. 133; 1874, XV, 704.

(22) § 22. Cruelty to Children—Punishment.—Whoever tortures, torments, cruelly illtreats, or whoever deprives of necessary sustenance or shelter, or whoever inflicts unnecessary pain or suffering, upon any child, or whosoever causes the same to be done, whether such person be the parent or guardian of such child, or have charge or custody of the same, shall, for every such offense, be deemed guilty of a misdemeanor, and be punished by imprisonment in jail not exceeding thirty (30) days, or by fine not exceeding one hundred ($100) dollars.

Ch. X, in Reference to Cruelty to Animals Made Applicable.—All the provisions of Chapter X in reference to the prevention of cruelty to animals shall be extended to the enforcement of this Section.

Crim. Code, '12, § 167; Crim. Code, '02, § 136; 1892, XXI, 3.

(23) § 23. Unskillful or Negligent Management of Steamboats, Etc.—If any person within this State shall suffer injury to life or limb by the explosion of any boiler of a steamboat, or by reason of the unskillfulness, mismanagement, or negligence of the persons having the charge or command of the said boat, or her engine, or by reason of any defect in the said engine or boat, or by reason of the deficiency or want of any matter or thing necessary and proper for the management or seaworthiness of the said boat, the captain, master, or other person having the command or charge of such boat, shall, for every such injury, be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, at the discretion of the Court before which such conviction shall be had: *Provided, however,* That nothing contained in this Section shall be so construed as to prevent the defendant from showing, on the trial, that the injury arose from unavoidable accident, or without fault on his part, and

that this Section shall not in any manner be construed to restrict the liability of any person to be indicted, tried, and punished under any law existing.

Crim. Code, '12, § 168; Crim. Code, '02, § 137; G. S. 2477; R. S. 135; 1837, VI, 571.

(24) § 24. Wilful Neglect of Railroad Employees.— Any engineer or conductor of any railroad company in the State, who shall wilfully neglect to observe, or shall wilfully violate, any rule or regulation of the company to which such engineer or conductor may belong, whereby any person or persons shall sustain, or be in danger of sustaining, any bodily injury, such engineer or conductor shall be liable to be indicted for every such offense, and, upon conviction thereof, shall be fined two hundred dollars, and be imprisoned not exceeding one year, at the discretion of the Judge before whom such case may be tried: *Provided, however,* That nothing herein contained shall be so construed as to relieve such engineer or conductor from responsibility, in cases where the life of any person is destroyed, under the law as it now exists.

Crim. Code, '12, § 169; Crim. Code, '02, § 138; G. S. 2478; R. S. 136; 1857; XII, 634.

(25) § 25. Punishment for Certain Means or Advice to Woman to Cause Abortion, Etc.—Evidence.—Any person who shall administer to any woman with child, or prescribe or procure or provide for any such woman, or advise or procure any such woman to take any medicine, drug, substance or thing whatever, or shall use or employ or advise the use or employment of, any instrument or other means of force whatever, with intent thereby to cause or produce the miscarriage or abortion or premature labor of any such woman, shall, upon conviction thereof, be punished by imprisonment in the Penitentiary for a term not more than five years, or by fine not more than five thousand dollars, or by such fine and imprisonment both, at the discretion of the Court, but no conviction shall be had under the provisions of this Section upon the uncorroborated evidence of such woman.

Crim. Code, '12, § 170; Crim. Code, '02, § 139; 1882, XVIII, 547; R. S. 137.

State *v.* Fields, 68 S. C. 149, 46 S. E. 771.

(26) § 26. Punishment as to Use of Certain Means by Women to Commit Abortion.—Any woman with child who shall apply to or solicit from any physician, druggist or other person whomsoever, any medicine, drug, substance or thing whatever, or shall take or administer the same, or shall submit to or perform upon herself any operation of any sort or character whatever, with intent thereby to cause or produce a miscarriage or abortion or premature labor, unless the same shall have been necessary to preserve her life or the life of such child, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail or State Penitentiary for a term not more than two years, or by fine not exceeding one thousand dollars, or by such fine and imprisonment both, at the discretion of the Court.

Crim. Code, '12, § 171; Crim. Code, '02, § 140; R. S. 138; 1882, XVIII, 547.

(27) § 27. Penalty Upon Officer From Whom Prisoner is Taken.—In the case of any prisoner lawfully in the charge, custody or control of any officer, State, County or Municipal, being seized and taken from said officer through his negligence, permission or connivance, by a mob or other

unlawful assemblage of persons, and at their hands suffering bodily violence or death, the said officer shall be deemed guilty of a misdemeanor, and, upon true bill found, shall be deposed from his office pending his trial, and upon conviction shall forfeit his office, and shall, unless pardoned by the Governor, be ineligible to hold any office of trust or profit within this State. It shall be the duty of the prosecuting attorney within whose Circuit or county the offense may be committed to forthwith institute a prosecution against said officer, who shall be tried in such county in the same Circuit, other than the one in which the offense was committed, as the Attorney General may elect. The fees and mileage of all material witnesses, both for the State and the defense, shall be paid by the County Treasurer of the county in which the case originated, on a certificate issued by the Clerk and signed by the presiding Judge, showing the amount of said fee due the witness.

Crim. Code, '12, § 173; Crim. Code, '02, § 142; 1896, XXII, 213; 1908, XXV, 1019.

(28) § 28. Disturbing Schools Attended by Girls, or Women.—It shall be unlawful for any person wilfully or unnecessarily to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State attended by women or girls, or to loiter about such school or college premises, or to act in an obnoxious manner thereon, or for any person to enter upon any such school or college premises, or loiter around the premises, except on business, without the permission of the principal or president in charge.

Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and, on conviction thereof, shall pay a fine of not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail for not less than ten days nor more than thirty days.

1919, XXXI, 239.

CHAPTER II.

Offenses Against Property.

(29) Section 1. Arson.—The wilful and malicious setting fire to or burning any house, of whatever name or kind, within the curtilage or common inclosure of any house or room wherein persons habitually sleep, whereby any such dwelling house or sleeping apartment shall be endangered; also, the wilful and malicious setting fire to or burning any court house or other public building, whether owned by the State or a corporation, or a building owned by an individual or individuals, and kept or let for public meetings or exhibitions, barn, stable, coach house, gin house, storehouse, warehouse, grist or saw mill, railroad depot, coach or cotton factory; or other house used for manufacturing purposes, of whatever name or kind, or setting fire to or burning any house habitually used for public religious worship, shall be deemed arson, whether the setting fire to or burning be in the day or nighttime; and the person setting fire to or burning any such house as aforesaid, and the aiders, abettors, and accessories before the fact, shall, upon conviction, suffer death in the same form and manner as is now provided by law for wilful murder: *Provided,*

however, That in each case where the prisoner is found guilty, the jury may find a special verdict, recommending him to the mercy of the Court, whereupon the punishment shall be reduced to a term of imprisonment in the county jail or at hard labor in the penitentiary or on the public highways in the discretion of the Court.

Crim. Code, '12, § 174; Crim. Code, '02, § 143; G. S. 2480; R. S. 140; 1869, XIV, 175; 1878, XVI, 631; 1883, XVIII, 290; 1912, XXVII, 702; 1915, XXIX, 193.

Soliciting another to commit arson, and bribing him and preparing him to do it, is an indictable offense. State *v.* Bowers, 35 S. C. 262, 14 S. E. 488.

Acquittal under charge of arson is not a good plea to indictment for statutory offense of burning an untenanted house. State *v.* Jenkins, 20 S. C. 352.

It is not arson to burn one's own house. State *v.* Sarvis, 45 S. C. 688, 24 S. E. 53.

Arson is an offence against the possession rather than the property. State *v.* Copeland, 46 S. C. 13, 23 S. E. 980; State *v.* Perry, 74 S. C. 554, 54 S. E. 764.

The house may be alleged as the property of either the owner or the occupant. State *v.* Carter, 49 S. C. 265, 27 S. E. 106.

It is not arson to burn a corn crib, not within the curtilage of the dwelling. State *v.* Jeter, 47 S. C. 2, 24 S. E. 889.

INDICTMENT—

Not fatally defective because it omits to state the Courthouse or other place where crime was committed, when it names the County. State *v.* Moore, 24 S. C. 150.

It is good practice to allege that the crime was committed at Courthouse. State *v.* Colclough, 31 S. C. 156, 9 S. E. 811.

It need not allege location of stable or gin house burned, nor charge that it was within the curtilage. State *v.* Gwinn, 24 S. C. 146; State *v.* Moore, 24 S. C. 150.

Defendant waived his right to copy of, three days before trial, when he had received it two days before, and went to trial without objection. State *v.* Colclough, 31 S. C. 156, 9 S. E. 811.

The objection as to variance between allegation and proof as to ownership should be made on Circuit. State *v.* Gadsden, 70 S. C. 430, 50 S. E. 16.

An indictment at common law for attempting to burn a storehouse within the curtilage, is a bar to a subsequent indictment under the Statute for burning the same storehouse. State *v.* Switzer, 65 S. C. 187, 43 S. E. 513.

EVIDENCE—

Of pecuniary condition, is irrelevant and incompetent. State *v.* Moore, 24 S. C. 150.

Where one is on trial as accessory before the fact; conversations at and after fire inadmissible. State *v.* Dukes, 40 S. C. 481, 19 S. E. 134.

Confession of coconspirator. State *v.* Green, 40 S. C. 328, 18 S. E. 933.

Confessions must be shown to have been voluntary and free from inducement. State *v.* Moorman, 27 S. C. 22, 2 S. E. 621.

Charge. State *v.* Rhodes, 44 S. C. 325, 22 S. E. 306.

(30) § 2. Felony to Burn Any Building Which is Insured.—Any person who shall wilfully or wantonly set fire to or burn, or attempt to burn, any building or structure, which is insured, whether such person be the owner thereof or not, or any person, present or absent, who shall aid, assist, procure, or counsel therein, and who shall thereafter make claim or demand for the insurance thereon, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment, in the discretion of the Court.

The provisions of this Section shall in no way affect the law against arson.

Crim. Code, '12, § 175; 1909, XXVI, 18.

(31) § 3. Certain Burnings Declared a Felony.—Any person who shall wilfully or wantonly set fire to or burn, or attempt to burn, any building or structure or any personal property in which such person has an interest as mortgagee, insurer or otherwise, whether such person be the owner thereof or not, or any person, present or absent, who shall aid, assist, procure or council therein, and who shall thereafter make claim or demand for the insurance thereon, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the discretion of the Court.

Crim. Code, '12, § 176; 1911, XXVII, 140.

CHALLENGES—

Defendant only entitled to five peremptory. State *v.* Workman, 15 S. C. 540.

DEFENSE—
Not, upon trial for burning an untenanted house, that prisoner had been acquitted on trial for arson for same burning. State *v.* Jenkins, 20 S. C. 351.
Plea of *autre fois acquit* was properly overruled upon trial on a second indictment, when the first had been quashed, because it charged the offense to have been committed at a future day. State *v.* Jenkins, 20 S. C. 351.
EVIDENCE—
Whether a confession was free and voluntary depends upon circumstances, and is a question for the Circuit Judge in his discretion to decide. State *v.* Workman, 15 S. C. 540.
Confession of one not testimony against his codefendant; but it was not error to allow it in full, without suppression of name of codefendant, the jury having been instructed that it was testimony only against the party who made it. State *v.* Workman, 15 S. C. 540.
Two men being tried jointly for same crime, wife of one not a competent witness for her husband, nor, as to any common ground of defense, for the other. State *v.* Workman, 15 S. C. 540.
NEW TRIAL—
Motion for, on ground of after-discovered evidence, properly refused, where the affidavits did not show that it could not, by due diligence, have been discovered before trial. State *v.* Workman, 15 S. C. 540.
Indictment not sufficient under this Section. State *v.* Jeter, 47 S. C. 2, 24 S. E. 889.

(32) § 4. Burglary—Punishment For.—Any person who shall commit the crime of burglary at common law shall, upon conviction, be imprisoned in the State Penitentiary, with hard labor, during the whole lifetime of the prisoner: *Provided, however,* That in each case where the prisoner is found guilty, the jury may find a special verdict, recommending him to the mercy of the Court, whereupon the punishment shall be reduced to imprisonment in the Penitentiary, with hard labor for a term of not less than five years.

Crim. Code, '12, § 177; Crim. Code, '02, § 144; G. S. 2481; R. S. 141; 1883, XVIII, 290.

Burglary defined. State *v.* Ginns, 1 N. & McC. 583; State *v.* Sampson, 12 S. C. 567; State *v.* Clary, 24 S. C. 116.
Cannot be committed in millhouse, which was not a parcel of dwelling house and separated by public road. State *v.* Sampson, 12 S. C. 567.
Nor in a house, in which no one slept, near, but not appurtenant to, the dwelling house, used for storage. State *v.* Anderson, 24 S. C. 109.
Breaking into a dwelling house with intent to steal an article of less value than $20, is burglary. State *v.* Clary, 24 S. C. 116.
Neither the Act of 1866, enlarging the limits within which burglary may be committed, nor the Act of 1878, increasing its punishment, repealed burglary at common law. State *v.* Branham, 13 S. C. 389.
Where party breaks out of dwelling house at night, having committed a felony, no matter how he entered, it is burglary. State *v.* Bee, 29 S. C. 81, 6 S. E. 911.
Evidence that outhouse is separated by public road from the dwelling does not show it could not be appurtenant to the dwelling. State *v.* Johnson, 45 S. C. 483, 23 S. E. 619.
Where a servant having a right to sleep in his master's dwelling goes in, not with intent to lodge, but with intent to steal, by opening the door or raising the sash, and actually steals and carries away his master's goods, he commits a burglary. State *v.* Howard, 64 S. C. 344, 42 S. E. 174.
INDICTMENT—
May join count for burglary with a count for receiving stolen goods. State *v.* Strickland, 10 S. C. 192.
Misnomer not fatal, unless objected to. State *v.* Branham, 13 S. C. 389.
Precise day or year need not be alleged, provided day named is anterior to bill. State *v.* Branham, 13 S. C. 389; State *v.* Dawkins, 32 S. C. 17, 10 S. E. 772; State *v.* Howard, 32 S. C. 91, 10 S. E. 831.
Ownership of house properly laid in wife, who had a separate estate when she leased it, and goods were hers. State *v.* Trapp, 17 S. C. 470.
It must allege that offense was committed in night-time. State *v.* Dawkins, 32 S. C. 17, 10 S. E. 772.
It is not necessary to specify the particular chattels defendant intended to steal. State *v.* Langford, 55 S. C. 322, 33 S. E. 370.
Where two are indicted for burglary, if one be convicted only of larceny, the other cannot be convicted of burglary. State *v.* Davis, 3 McC. 187.
Allegation that outhouse was within the curtilage, how to be made. State *v.* Evans, 18 S. C. 137.
EVIDENCE—
Confession may be proved, though manner of officer was rude. State *v.* Branham, 13 S. C. 389.
Evidence as to discovery of goods, etc., in consequence of information obtained by duress from defendant. State *v.* Middleton, 69 S. C. 72, 48 S. E. 35.
The false denial of a party charged of an important fact, made voluntarily at preliminary hearing, may be proved by parol. State *v.* Howard, 32 S. C. 91, 10 S. E. 831.
Prosecutor may testify that house was his. State *v.* Brown, 33 S. C. 151, 11 S. E. 641.
Proof of acquittal of burglary in house of one no bar to conviction of burglary in house of another. State *v.* Brown, 33 S. C. 151, 11 S. E. 641.
Whether circumstances shown are sufficient to corroborate the testimony of an accomplice, must be left wholly to the jury. State *v.* Robinson, 35 S. C. 340, 14 S. E. 766.
Tracks as evidence of defendant's guilt. State *v.* Wilkes, 82 S. C. 163, 63 S. E. 688; State *v.* Burris, 85 S. C. 328, 67 S. E. 306.
Possession of skeleton keys as evidence. State *v.* Clark, 85 S. C. 273, 67 S. E. 300.
As to corporate existence of owner of goods or dwelling. State *v.* Sowell, 85 S. C. 278, 67 S. E. 316.

CHARGE—
No error to decline to give legal definition of burglary when correct principles of law applicable had already been stated. State *v.* Dawkins, 32 S. C. 17 10 S. E. 772.
Judge cannot charge as to weight to be given testimony of an accomplice. State *v.* Clark, 85 S. C. 273, 67 S. E. 300; State *v.* Sowell, 85 S. C. 278, 67 S. E. 316.
There being one count for burglary and another for larceny, upon conviction of burglary, error in charge as to larceny immaterial, and no ground for new trial. State *v.* Dawkins, *supra.*
To effect that prisoner was a thief and was guilty, violates Article 4, § 26, of the Constitution of 1868. State *v.* Brown, 33 S. C. 151, 11 S. E. 641.
VERDICT—
General verdict on indictment with three counts, one for burglary, one for another burglary, and the third for petit larceny, is good. State *v.* Nelson, 14 Rich. 169.
Jury having published their verdict cannot afterwards reassemble and render a second verdict with recommendation to mercy. State *v.* Dawkins, 32 S. C. 17, 10 S. E. 772.
NEW TRIAL—
Must be granted if sentence was based upon second verdict, after first had been rendered. State *v.* Dawkins, 32 S. C. 17, 10 S. E. 772.
When entire failure of proof as to the breaking, the only remedy is by motion for. State *v.* Dawkins, 32 S. C. 17, 10 S. E. 772.
Plea for former acquittal not sustained, where defendant was by order of Court acquitted on first count, and convicted by jury on second, and the judgment set aside and new trial ordered on application by defendant. State *v.* Hamilton, 80 S. C. 442, 61 S. E. 965, 128 Am. St. Rep. 881.
General verdict of guilty on indictment for burglary and larceny. State *v.* Hendrix, 86 S. C. 64, 68 S. E. 129.

(33) § 5. Housebreaking Which is Not Burglary—Felony—Punishment.—Every person who shall break and enter, or who shall break with intent to enter, in the daytime, any dwelling house or other house, or who shall break and enter, or shall break with intent to enter, in the nighttime, any house, the breaking and entering of which would not constitute burglary, with intent to commit a felony or other crime of a lesser grade, shall be held guilty of a felony, and punishable at the discretion of the Court by imprisonment in the county jail or Penitentiary for a term not exceeding one year.

Crim. Code, '12, § 178; Crim. Code, '02, § 145; G. S. 2482; R. S. 142: XVII, 60; 1887, XIX, 792.

This Section creates two distinct offenses; both felonies, but committed at different times, and where both are charged in the same indictment, the Solicitor may be required to elect upon which count he will go to trial. State *v.* Bouknight, 55 S. C. 354, 33 S. E. 451; State *v.* Sowell, 85 S. C. 283, 67 S. E. 316. As to form of indictment for breaking and entering in the nighttime. State *v.* Bouknight, *supra.* Allegation as to character of house. *Ib.*
The mere breaking and entering a house is not a crime; there must be an intent to commit a crime. State *v.* Clark, 85 S. C. 273, 67 S. E. 300; State *v.* Cokley, 83 S. C. 197, 65 S. E. 174.
An amendment of indictment as to time of breaking not allowed. State *v.* Sowell, 85 S. C. 283, 67 S. E. 316.
EVIDENCE—
Letters purporting to be written by defendant. State *v.* Head, 38 S. C. 258, 16 S. E. 892; State *v.* Weldon, 39 S. C. 318, 17 S. E. 688. Prior offenses. *Ib.* Competency of deaf mute. *Ib.*
Of accomplice. State *v.* Clark, 85 S. C. 273, 67 S. E. 300; State *v.* Sowell, 85 S. C. 278, 67 S. E. 316.
A defendant, after plea of guilty, may be used as witness against a codefendant. State *v.* Boyles, 80 S. C. 352, 60 S. E. 233.
State *v.* Ross, 83 S. C. 434, 65 S. E. 443.

(34) § 6. Dwelling House Defined in Case of Burglary and Arson.—With respect to the crimes of burglary and arson, and to all criminal offenses which are constituted or aggravated by being committed in a dwelling house, any house, outhouse, apartment, building, erection, shed, or box, in which there sleeps a proprietor, tenant, watchman, clerk, laborer, or person who lodges there with a view to the protection of property, shall be deemed a dwelling house; and of such a dwelling house, or of any other dwelling house, all houses, outhouses, buildings, sheds, and erections which are within two hundred yards of it, and are appurtenant to it, or to the same establishment of which it is an appurtenance, shall be deemed parcels.

Crim. Code, '12, § 179; Crim. Code, '02, § 146; G. S. 2483; R. S. 143; 1866, XIII, 405.

INDICTMENT—
Should have alleged that the house in which burglary was committed was within two hundred yards of the dwelling house and appurtenant thereto. State *v.* Evans, 18 S. C. 139; State *v.*

Langford, 55 S. C. 322, 33 S. E. 370. So as to arson. State *v.* Jeter, 47 S. C. 2, 24 S. E. 889.

EVIDENCE—

Whether circumstances coroborate testimony of accomplice is a question for jury; Judge cannot so charge. State *v.* Robinson, 35 S. C. 340, 14 S. E. 766.

CHARGE—

No error to refuse to charge a request that has no application, nor to neglect to charge, as requested, in the language of Supreme Court, when Judge has already charged the law correctly. State *v.* Robinson, 35 S. C. 340, 14 S. E. 766.

APPEAL—

Held on, that improper conviction under the Section could not be referred to the charge in the indictment of the higher offense of burglary at common law. State *v.* Evans, 18 S. C. 139.

Neither alleged error of fact by Judge in refusing motion for new trial, nor testimony received without objection, can be considered by Supreme Court. State *v.* Robinson, 35 S. C. 340, 14 S. E. 766.

Construed not to be arson. State *v.* Pope, 9 S. C. 273.

TRIAL—

Prisoner only entitled to five peremptory challenges. State *v.* Pope, 9 S. C. 273.

As to original Act. State *v.* Bosse, 3 Rich. 276; State *v.* DeBruhl, 10 Rich. 23.

(35) § 7. Felony to Enter Bank With Intent to Steal.—Whoever shall break and enter, or enter without breaking, any building or part of a building occupied as a bank, with intent to steal any money or securities for money or other thing of value, either by force, intimidation, threats, stealth or otherwise, shall be deemed guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the Penitentiary at hard labor for not less than ten years.

Crim. Code, '12, § 180; 1908, XXV, 1112.

(36) § 8. Stealing of Bonds, Etc.—The stealing, or taking by robbery, of any bond, warrant, bill, or promissory note, for the payment, or securing the payment of any money, being the property of any other person, or of any corporation, notwithstanding any of the said particulars are termed in law a chose in action, shall be deemed and construed to be a felony if of or above the value of twenty dollars, and a misdemeanor if below the value of twenty dollars; and such offender shall suffer such punishment as if he had stolen other goods of the like value with the moneys due on such bond, warrant, bill, or note, respectively, or secured thereby and remaining unsatisfied.

Crim. Code, '12, § 181; Crim. Code, '02, § 147; G. S. 2486; R. S. 144; 1737, III, 470.

The taking need not be by robbery. State *v.* Cassados, 2 N. & McC. 91. Bank bills included in Statute. *Ib.*

Distinction between bank bills and notes defined. State *v.* Wilson, 3 Brev. 243.

At common law choses in action were not the subject of larceny; made so by Act of 1737. State *v.* Tillery, 1 N. & McC. 9.

INDICTMENT—

Sufficient, if it describe the bills as of a certain bank named; general description only required. State *v.* Wilson, 3 Brev. 243; State *v.* Smart, 4 Rich. 356; State *v.* Evans, 15 Rich. 31.

EVIDENCE—

Some necessary, that the bills were of value and genuine; but not such as would be necessary to recover the money due thereon, in proper action. State *v.* Tillery, 1 N. &. McC. 9; State *v.* Smart, 4 Rich. 356.

But it is not necessary to prove a minute description of the bills or to show that the banks were incorporated. State *v.* Smart, 4 Rich. 356.

If to show that bills were taken from another source than that alleged in indictment, the variance is fatal. State *v.* Waters, 3 Brev. 507.

CHARGE—

Not error to charge that if jury believed the money was taken by surprise and defendant converted it to his own use, it was larceny. State *v.* Watson, 7 S. C. 63; *Ib.*, 7 S. C. 67.

VERDICT—

"Guilty of larceny only," sufficient. State *v.* Smart, 4 Rich. 356.

NEW TRIAL—

Granted when evidence was suspicious. State *v.* Smart, 4 Rich. 356.

(37) § 9. Stealing Boats, Etc.—In Trespass Offenders Shall Pay Damages—Proviso.—Whoever shall steal, take away, or let loose any boat, periauger or canoe, or steal or take away any grappling, painter, rope, sail or oar from any landing or place whatsoever where the owners or persons in whose service or employ they were last had made fast or laid the same (except all boats or canoes as are let loose from another boat,

canoe or vessel), shall be liable to such fine or fines as the Court of Sessions shall impose in its discretion if the matter of fact be felony or larceny, and make good to the person or persons injured all damage they shall sustain; and in case the matter of fact be a trespass only, the person or persons committing such offense shall make good to the person injured all damages that may accrue thereby, and, moreover, forfeit and pay, for every time he or they shall be found guilty thereof, the sum of twenty dollars, one moiety thereof to be paid to the State Treasurer for the public use, the other moiety to him or them that will sue and prosecute for the same in any Court of competent jurisdiction in this State, beside his charges therein expended: *Provided,* That when the boat, periauger, canoe, grappling, painter, rope, sail or oar, or any or all of them so taken away, stolen or let loose, shall be of the value of twenty dollars or less, the offender, upon conviction before a Magistrate, shall be subject to a fine not to exceed one hundred dollars or imprisonment not exceeding thirty days, in lieu of the penalties prescribed in the foregoing Section.

Crim. Code, '12, § 182; Crim. Code, '02, § 148; G. S. 2488; R. S. 145; 1695, II, 105; 1897, XXII, 422.

Prior to the addition of the provision in 1897, Magistrates had no jurisdiction of this offense. State *v.* Weeks, 14 S. C. 400.

(38) § 10. Stealing Live Stock.—Any person found guilty of the larceny of any horse, mule, cow, hog, or any other live stock, shall suffer imprisonment in the State Penitentiary at hard labor for a period of not less than one year nor more than ten years, and such fine as the Court, in its discretion, may see fit to impose.

Crim. Code, '12, § 183; Crim. Code, '02, § 149; G. S. 2489; R. S. 146; 1878, XVI, 632.

Larceny defined. State *v.* Garvin, 48 S. C. 258, 26 S. E. 570.

CONSTRUED—

As repealing all former Acts on the subject. State *v.* Corley, 13 S. C. 1. It gives jurisdiction to Court of General Sessions for stealing cow below the value of $20. *Ib.* And provides punishment without regard to value. State *v.* Moore, 30 S. C. 69, 8 S. E. 437.

The Act of 1893, 21 Statutes, 411, attempting to reduce the punishment where the property did not exceed a certain value, was held unconstitutional in State *v.* Crosby, 51 S. C. 248, 28 S. E. 529.

INDICTMENT—

For stealing a *colt* cannot be sustained, it seems, as colt is not the term used in the Section. State *v.* Major, 14 Rich. 76. The word "mare" is included in the term "horse." State *v.* Dunnovant, 3 Brev. 9.

Property may be laid in one who has merely the lawful possession. State *v.* Addington, 1 Bail. 310.

Mortgagor of personal property in possession after condition broken has such ownership as will sustain indictment alleging ownership in him. State *v.* Stokes, 84 S. C. 579, 66 S. E. 993. Property alleged in agent for another. State *v.* Philips, 73 S. C. 236, 53 S. E. 370.

Where horse is stolen in one County and carried into and sold in another, the indictment may be in the latter County. State *v.* Bryant, 9 Rich. 113.

An indictment cannot be quashed because the prosecution is barred by lapse of time. State *v.* Howard, 15 Rich. 274.

Indictment sufficient under Act of 1789. State *v.* Hamlin, 4 S. C. 1.

ARRAIGNMENT—

Is not necessary. State *v.* Moore, 30 S. C. 69, 8 S. E. 437.

Where the value of the stock stolen is under twenty dollars, the State is only entitled to two peremptory challenges. State *v.* Anderson, 59 S. C. 229, 37 S. E. 820.

EVIDENCE—

Not necessary to prove the time as laid in the indictment. State *v.* Porter, 10 Rich. 145. Any time prior to finding of indictment is sufficient. State *v.* Anderson, 59 S. C. 229, 37 S. E. 820; State *v.* Reynolds, 48 S. C. 384, 26 S. E. 679.

Possession of stolen property. State *v.* Hamilton, 77 S. C. 383, 57 S. E. 1098.

Tracks. State *v.* Wideman, 68 S. C. 120, 46 S. E. 769; State *v.* Langford, 74 S. C. 460, 55 S. E. 120; State *v.* Wilkes, 82 S. C. 163, 63 S. E. 688.

Offer by defendant to pay for goods. State *v.* Wideman, 68 S. C. 120, 46 S. E. 769.

Circumstantial evidence. State *v.* Wideman, 68 S. C. 120, 46 S. E. 769; State *v.* Langford, 74 S. C. 460, 55 S. E. 120.

Voluntary confession of prisoner in jail to prosecutor in presence of jailer admissible. State *v.* Cook, 15 Rich. 29.

The proof must sustain the allegation of ownership. State *v.* Thomas, 14 Rich. 163.

Proof of separate ownership in each of those alleged to be joint owners of several articles will not sustain indictment charging joint ownership of property stolen. State *v.* Hamilton, 77 S. C. 383, 57 S. E. 1098.

CHARGE—
Illustrative of difference between stealing a horse, and riding one off without knowledge or consent of owner. State *v.* Sanders, 56 S. C. 415, 35 S. E. 133.
As to reason for special Act. State *v.* Philips, 73 S. C. 236, 53 S. E. 370.
As to circumstantial evidence. State *v.* Jackson, 68 S. C. 54, 46 S. E. 538; State *v.* Langford, 74 S. C. 460, 55 S. E. 120.
Burden of proof as to alibi is on the defendant. State *v.* Anderson, 59 S. C. 229, 37 S. E. 820.
Chasing and shooting hog, without removing it after it is shot, not larceny. State *v.* Seagler, 1 Rich. 30. Proof of ownership. State *v.* Washington, 15 Rich. 39; State *v.* London. 3 S. C. 230; State v. Pitts, 12 S. C. 180; State *v.* Evans, 23 S. C. 209; State *v.* Garvin, 48 S. C. 258, 26 S. E. 570.
Rebuttal of presumption arising from possession of recently stolen goods. State *v.* Garvin, 48 S. C. 258, 26 S. E. 570; State *v.* Wallace, 44 S. C. 357, 22 S. E. 411.
NEW TRIAL—
Refused; testimony tending to support charge. State *v.* Porter, 80 S. C. 450, 61 S. E. 1087.
SENTENCE—
Without notification to counsel is not error of law. State *v.* Moore, 30 S. C. 69, 8 S. E. 437.

(39) § 11. Larceny of Bicycles.—The larceny of any bicycle shall be punishable at the discretion of the Court.

Crim. Code, '12, § 184; Crim. Code, '02, § 150; 1901, XXIII, 749; 1919, XXXI, 215.

(40) § 12. Stealing Beddings, Etc., From Lodgings.—Whoever shall take away, with intent to steal, embezzle, or purloin, any chattel, bedding, or furniture, which by contract or agreement he is to use, or shall be let to him to use, in or with lodging, such taking, embezzling, or purloining, shall be, to all intents and purposes, taken, reputed and adjudged to be larceny and felony, and the offender shall suffer as in case of felony.

Crim. Code, '12, § 185; Crim. Code, '02, § 151; G. S. 2490; R. S. 147; 3 and 4 W. & M., c. 9; 1712, II, 532.

(41) § 13. Privily Stealing From Person or House.—The offense of privily stealing from the person or of privily entering and stealing from any house, in the nighttime or daytime, shall in all cases be deemed and adjudged grand larceny, and subject to the same punishment.

Crim. Code, '12, § 186; Crim. Code, '02, § 152; G. S. 2491; R. S. 148; 8 Eliz. 2. c. 4; 1712, II, 496; 1858, XII, 706; 1902, XXIII, 1094.

EVIDENCE—
State not bound to prove that no force was used. State *v.* Chavis, 34 S. C. 132, 13 S. E. 317. State *v.* Major, 70 S. C. 387, 50 S. E. 13.
Evidence held sufficient to support a verdict. State *v.* Givens, 87 S. C. 525, 526, 70 S. E. 162.
CHARGE—
No error to further charge that the State need not show that the property was not taken by force, when Judge had already charged that it must have been secretly and privately taken from the person. State *v.* Chavis, 34 S. C. 132, 13 S. C. 317.
INDICTMENT—
Indictment must charge all elements necessary to constitute the statutory crime. State *v.* Banks, 84 S. C. 545, 66 S. E. 999.
Each count should contain all allegations necessary to make out an offense. The second count in the indictment here so construed charges petit larceny only. Upon conviction on this count alone, it was error to sentence for compound larceny. State *v.* Banks, 84 S. C. 543, 66 S. E. 999.

(42) § 14. Restitution of Stolen Goods.—Any felon who shall rob, or take away, any money, goods or chattels, from any person, from their person or otherwise, and be found guilty thereof, the party so robbed, or owner, shall be restored to his said money, goods, and chattels; and the Judge, before whom any such felon shall be found guilty, shall award, from time to time, writs of restitution for said money, goods and chattels.

Crim. Code, '12, § 187; Crim. Code, '02, § 153; G. S. 2492; R. S. 149; 21 H. 8, c. 11; 1712, II, 458.

(43) § 15. Breach of Trust With Fraudulent Intent.—Any person committing a breach of trust with a fraudulent intention shall be held guilty of larceny; and so shall any person who shall hire or counsel any other person to commit a breach of trust with a fraudulent intention.

Crim. Code, '12, § 188; Crim. Code, '02. § 154; G. S. 2493; R. S. 150; 1866, XIII, 406.

CONSTRUED—
As applying not only to cases which the common law did not reach, but also to cases where a fraudulent appropriation did constitute larceny at common law. State *v.* Shirer, 20 S. C. 392. Merely extends the crime of larceny at common law. State *v.* Butler, 21 S. C. 353.
Where an agent receives and retains money which he knows belongs to his principal, with intent to defraud his principal, he is guilty. State *v.* Ezzard, 40 S. C. 313, 18 S. E. 1025.
INDICTMENT—
Sufficient, if offense be so described that the defendant may know how to answer it, the Court what judgement to pronounce, and that a conviction or acquittal on it may be pleaded in bar to another indictment for same offense. State *v.* Shirer, 20 S. C. 392; State *v.* Butler, 21 S. C. 353.
Ownership of property must be alleged with the same accuracy and after same rule as in common law larceny. State *v.* Shirer, 20 S. C. 392.
Sufficient, if it describe the money taken, in an amount of dollars of "lawful currency of the United States, of denomination and issue unknown," although the kind of currency is not charged. *Ib.*
Trial upon an indictment for breach of trust on a certain day in one amount is former jeopardy to same defendant on trial under second indictment alleging breach of trust as to funds of same person in a different amount on another day; it not appearing that different funds were referred to. State *v.* Dewees, 76 S. C. 72, 76, 56 S. E. 674, 11 Am. & Eng. Ann. Cas. 991.
The motion to quash is not of right, but is addressed to the discretion of the Court, and generally his decision is not appealable. State *v.* Shirer, 20 S. C. 392.
DEFENSE—
Not good, by way of plea of former acquittal, where, after mistrial, the first indictment was marked *nolle prosequi*, and a new bill found. State *v.* Shirer, 20 S. C. 392.
EVIDENCE—
Where it shows the trust to consist in that which is different from that alleged in the indictment, it is fatal. State *v.* Green, 5 S. C. 66.
It is not necessary to prove either the precise time, or the precise amount laid in the indictment, State *v.* Dewees, 76 S. C. 72, 76, 56 S. E. 674, 11 Am. & Eng. Ann. Cas. 991.
CHARGE—
Error in refusing to charge that there must be fraudulent intent, and that the mere fact of not paying over the money was not sufficient in itself to convict. State *v.* Butler, 21 S. C. 353.

(44) § 16. Safe-Cracking.—Any person convicted of using any explosive in or about a safe used for keeping money or other valuables, with intent to commit larceny or any other crime, shall be deemed guilty of felony, and be sentenced to the Penitentiary during the term of his life: *Provided,* That if the jury recommend the defendant to the mercy of the Court, a sentence of not less than ten years' imprisonment may be imposed, in the discretion of the Court.

Crim. Code, '12, § 191; 1904, XXIV, 396; 1907, XXV, 580.

State *v.* O'Day, 74 S. C. 448, 54 S. E. 607.
Act, 24 Stat. 396, not objectionable in that subject of act is not expressed in title. "Safe crackers" defined. Sate *v.* O'Day, 74 S. C. 448, 54 S. E. 607.

(45) § 17. Train Robbery.—Any person or persons who may stop, or cause to be stopped, or impede, or cause to be impeded, or conspire together for that purpose, any locomotive engine, or any car or cars, on any road, in this State, by intimidation of those in charge thereof, by force, threats, intimidation or otherwise, for the purpose of taking therefrom or causing to be delivered up to such persons or person forcing, threatening or intimidating, anything of value, to be appropriated to his or their own use, shall be guilty of train robbery, and, on conviction thereof, shall be punished by confinement in the Penitentiary not less than two years nor more than twenty years.

Crim. Code, '12, § 192; 1902, XXIII, 1095.

(46) § 18. Robbery on Trains, Etc.—Any and all persons who may hereafter enter upon any locomotive engine, car or cars, on any railroad in this State, and by threats, the exhibition of deadly weapons, or by the discharge of any pistol or gun on or near any such engine, car or cars, induce or compel any person or persons, on such engine, car or cars, to submit and deliver up, or allow to be taken therefrom, or from him or them, anything of value, shall be guilty of train robbery, and, on convic-

tion thereof, shall be punished by imprisonment in the Penitentiary not less than ten years nor more than twenty years.

Crim. Code, '12, § 193; 1902, XXIII, 1095.

(47) § 19. Removing, Etc., Brasses and Packing From Cars, a Misdemeanor.—Any person who shall wilfully and maliciously, or with intent to steal, or with intent to injure, take or remove the brasses, bearings, waste, or packing from out any journal-box or boxes, of any locomotive, engine, tender, carriage, coach, car, caboose, or truck used or operated upon any railroad, whether the same be operated by steam or electricity, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the Penitentiary, or labor on the chaingang, for a period of not less than six months nor more than two years, or fined not less than fifty ($50) dollars nor more than two hundred ($200) dollars.

Crim. Code, '12, § 196; 1905, XXIV, 965; 1906, XXV, 6.

(48) § 20. Entering House or Vessel Without Breaking With Intent to Steal.—Any person who shall enter, without breaking, or attempt to enter, any house or vessel whatsoever, with intent to steal or commit any other crime, or shall conceal himself or herself in any house or vessel, with like intent, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished in the discretion of the Court.

Crim. Code, '12, § 198; 1905, XXIV, 849.

An indictment alleging entry with intent to steal, is sufficient, although it does not allege it was without breaking. State *v.* Ross, 83 S. C. 343, 65 S. E. 339.

(49) § 21. Theft of Electric Current a Misdemeanor.—Any person who has no contract, agreement, license or permission with or from any person or corporation authorized to manufacture, sell or use electricity for the purpose of light, heat or power, or with or from any authorized agent of such person or corporation for, the use of electrical current belonging to, or produced or furnished by, any such person or corporation, who shall wilfully withdraw, or cause to be withdrawn, in any manner, and appropriate such current from the wires of any such person or corporation, for his own use, or for the use of any other person or corporation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one hundred ($100) dollars, or by imprisonment, not exceeding thirty (30) days, or by both such fine and imprisonment. And any person who shall aid, abet or assist such other person in such withdrawing and appropriating of such current from such wires to or for the use of such other person, or to or for the use of any other person or corporation, shall be guilty of a misdemeanor, and shall, upon conviction, be punished in like manner.

Crim. Code, '12, § 199; 1904, XXIV, 409.

(50) § 22. Unlawful Appropriation of Gas a Misdemeanor.—Any person who has no contract, agreement, license or permission with or from any person or corporation authorized to manufacture, sell or use gas for the purpose of light, heat or power, or with or from any authorized agent of such person or corporation, for the use of gas belonging

to, or produced or furnished by, any such person or corporation, who shall wilfully withdraw, or cause to be withdrawn, in any manner and appropriate such gas from the pipes or conduits of any such person or corporation, for his own use, or for the use of any other person or corporation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not exceeding one hundred ($100) dollars, or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment. Any person who shall aid, abet or assist such other person in such withdrawing and appropriating of such gas from such pipes or conduits to or for the use of such other person, or to or for the use of any other person or corporation, shall be guilty of a misdemeanor, and shall, upon conviction, be punished in like manner.

Crim. Code, '12, § 200; 1911, XXVII, 148.

(51) § 23. **Wrongful Use of Gas a Misdemeanor.**—Any person who has a contract, agreement, license or permission, oral or written with or from any person or corporation authorized to manufacture, sell or use gas for the purpose of light, heat or power, or with or from any authorized agent of the same, for the use of the gas belonging to, or produced or furnished by, any such person or corporation, for certain specified purposes, who shall wilfully and intentionally withdraw, or cause to be withdrawn, in any manner and appropriate to his own use, or to the use of any other person or corporation, for purposes other than those specified, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in Section 22 of this Chapter. And any such person to whom such gas is furnished from or by means of a meter, who shall wilfully and with intention to cheat and defraud any of said persons or corporations, alter or interfere with such meter, or by any contrivance whatsoever withdraw or take off gas in any manner except through such meter, shall be guilty of a misdemeanor, and be punished as provided in Section 22 of this Chapter.

Crim. Code, '12, § 201; 1911, XXVII, 148.

(52) § 24. **Persons Cheating or Defrauding Producers of Electricity Guilty of Misdemeanor.**—Any person who has a contract, agreement, license or permission, oral or written, with or from any person or corporation authorized to manufacture, sell or use electricity for the purpose of light, heat or power, or with or from any authorized agent of the same, for the use of the electrical current belonging to, or produced or furnished by, any such person or corporation, for certain specified purposes, who shall wilfully and intentionally withdraw, or cause to be withdrawn, in any manner, and appropriate to his own use, or to the use of any other person or corporation, for purposes other than those specified, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in Section 21 of this Chapter. And any such person to whom such electrical current is furnished from or by means of a meter, who shall wilfully and with intention to cheat and defraud any of said persons or corporations, alter or interfere with such meter, or by any contrivance whatsoever withdraw or take off electrical cur-

rent in any manner except through such meter, shall be guilty of a misdemeanor, and be punished as provided in Section 21 of this Chapter.

Crim. Code, '12, § 202; 1904, XXIV, 410.

(53) § 25. Petit Larceny—Penalty.—Any simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or any article of personality, of which by law larceny may be committed, and of all such fixtures and parts of the soil as were severed from the soil by an unlawful act, below the value of twenty dollars, shall be a misdemeanor and considered a petit larceny, and be punished by imprisonment in the county jail for not more than thirty days, or by a fine of not more than one hundred dollars.

Crim. Code, '12, § 203; Crim. Code, '02, § 164; G. S. 2498; R. S. 160; 1866, XIII, 407; 1887, XIX, 820.

On indictment for grand larceny jury may find petit larceny. State *v.* Wood, 1 Mills Const. 29. But where two are jointly indicted one cannot be convicted of petit larceny and the other of grand larceny. State *v.* Davis, 3 McC. 187. But verdict against only one of the defendants may be rendered. State *v.* Lee, 29 S. C. 113, 7 S. E. 44.

This offense being exclusively a statutory one, an indictment at common law will not lie; and the indictment, therefore, must conclude, "contrary to the form of the Statute," etc. State *v.* Gray, 14 Rich. 174.

If article is of any value, the exact value need not be shown to sustain a conviction for petit larceny. State *v.* Stack, 1 Bail. 330. Sufficiency of description of money in indictment. State *v.* Evans, 15 Rich. 31. An indictment for stealing chickens of the value of five dollars from fowl house charges only petit larceny. State *v.* Johnson, 45 S. C. 483, 23 S. E. 619.

Stealing a dog below the value of twenty dollars is petit larceny. State *v.* Wheeler, 15 Rich. 362; State *v.* Langford, 55 S. C. 324, 33 S. E. 370.

Petit larceny is not a felony, but only a misdemeanor. Cherry *v.* McCants, 7 S. C. 224.

Only simple petit larceny is made a misdemeanor by this Section. State *v.* Clary, 24 S. C. 116. Variance between proof and allegation as description of property. State *v.* Cockfield, 15 Rich. 316.

Prior to its amendment in 1887 (19 Stat. 819), Magistrates did not have jurisdiction of petit larceny under this Section. State *v.* Williams, 13 S. C. 546; State *v.* Jenkins, 26 S. C. 121, 1 S. E. 437.

Since amendment of 1887, Magistrates have jurisdiction of such petit larceny. State *v.* Cooler, 30 S. C. 105, 8 S. E. 692, Concurrently with the General Sessions. State *v.* Langford, 55 S. C. 322, 33 S. E. 370.

Even where the offense was committed before. *Ib.*

This Section does not include stealing of live stock. State *v.* Moore, 30 S. C. 69, 8 S. E. 437.

Larceny may be committed of goods obtained by delivery from owner, *animo furandi.* State *v.* Gorman, 2 N. & McC. 90. So of goods taken and carried away without felonious intent, afterwards feloniously appropriated. State *v.* Davenport, 38 S. C. 348, 17 S. E. 37.

Possession of recently stolen goods as evidence of larceny. State *v.* Slack, 1 Bail. 330.

(54) § 26. Receiving Stolen Goods Misdemeanor.—In all cases whatever, where any goods or chattels or other property, of which larceny may be committed, shall have been feloniously taken or stolen by any person or persons, every person who shall buy or receive any such goods or chattels, or other property knowing the same to have been stolen, shall be held and deemed guilty of, and may be prosecuted for, a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment, although the principal felon or felons be not previously convicted, and whether he, she or they is, or are, amenable to justice or not: *Provided,* That when the chattel or other property stolen shall be of less value than twenty dollars, the punishment shall not exceed imprisonment in the county jail for thirty days, or a fine of not more than one hundred dollars.

Crim. Code, '12, § 204; Crim. Code, 1902, § 165; G. S. 25, 26a; R. S. 161; 1712, II, 543; 1760, IV, 309; 1887, XIX, 814.

At common law, receiver was not an accessory. State *v.* Butler, 3 McC. 383; State *v.* Council, Harp. 53.

In an indictment for receiving stolen goods it is not necessary to state the name of principal felon, or, if stated, to prove it. State *v.* Coppenberg, 2 Strob. 277. Nor the place where stolen, etc. State *v.* Crawford, 39 S. C. 343, 17 S. E. 799.

An indictment for buying and receiving stolen goods is good. State *v.* Posey, 7 Rich. 497.

The buying of goods and receiving them, knowing them to be stolen, completes the crime. State v. Winters, 83 S. C. 253, 65 S. E. 243; State v. Crawford, 39 S. C. 343, 17 S. E. 799; State v. Scovel, 1 Mills, 274; State v. Gibson, 83 S. C. 34, 64 S. E. 607, 916; State v. Daniels, 80 S. C. 368, 61 S. E. 1073.

Record of conviction of thief *prima facie* evidence of larceny. State v. Daniels, 80 S. C. 368, 61 S. E. 1073.

Where party received goods from servant and concealed them under circumstances sufficient to indicate that servant had stolen them, he was held guilty of receiving stolen goods. State v. Tiedman, 4 Strob. 303.

One cannot be convicted for this offense under same indictment against him and others for burglary and grand larceny, and against him alone for this offense. State v. Nelson, 14 Rich. 199.

So receiving stolen goods above the value of twenty dollars, properly held to be a misdemeanor, and the defendants were only entitled to five challenges each. State v. Jacobs, 30 S. C. 131, 8 S. E. 698.

The wife receiving stolen goods knowing them to be stolen, jointly with her husband and under his coercion, her greater activity in consummating the offense will not, as matter of law, make her guilty. State v. Houston, 29 S. C. 108, 6 S. E. 943.

When the defense was that the defendant had received the goods in payment of wages, it was error for Judge to charge that the goods were of more value than the services rendered. *Ib.*

Allowing stolen goods to be shipped as part of one's baggage. State v. Scovel, 1 Mills Const. 274.

Knowledge of the theft at time of receiving goods is essential to conviction. Facts sufficient to put a reasonably prudent man on inquiry are not sufficient. State v. Rountree, 80 S. C. 387, 61 S. E. 1072, 22 L. R. A., N. S., 833n.

EVIDENCE—

Possession of stolen goods. State v. Winters, 83 S. C. 153, 65 S. E. 209. Of accomplice. State v. Gibson, 83 S. C. 34, 64 S. E. 607, 916.

Trial of defendant in his absence. State v. Rabens, 79 S. C. 542, 60 S. E. 442, 1110.

Joinder of counts for larceny and receiving stolen goods in same indictment, the same parties not being in both counts. State v. Thomas, 75 S. C. 477, 55 S. E. 893; State v. Rountree, 80 S. C. 387, 61 S. E. 1072, 22 L. R. A., N. S., 833n.

(55) § 27. Firing Turpentine Farms.—It shall be unlawful for any person to set fire to any woods so near to any turpentine farm in this State as to injure or burn any such farm; and whoever shall wilfully and maliciously set fire to any woods at any time, whereby such farm or farms are injured or burned, shall be adjudged guilty of a felony, and liable to be punished at hard labor in the Penitentiary for the period of one year, or fined in the sum of five hundred dollars.

Crim. Code, '12, § 189; Crim. Code, '02, § 155; G. S. 2494; R. S. 151; 1876, XVI, 61.

(56) § 28. Punishment for Burning Ricks of Hay, Kilns, Etc., in Nighttime.—Whoever shall in the nighttime maliciously, unlawfully and wilfully burn, or cause to be burned or destroyed, any ricks or stacks of hay straw, or grain or kilns, shall, for every such offense, be punished by hard labor in the Penitentiary for life or for a period not less than two years, according to the aggravation of the offense.

Crim. Code, '12, § 190; Crim. Code, '02, § 157; G. S. 2484; R. S. 154; 22 and 33 C. 2, c. 7; 1712, II, 521; 1869, XIV, 175; 1887, XIX, 793.

Different offense from arson. State v. Pope, 9 S. C. 273.

(57) § 29. Misdemeanor to Interfere With Fire and Police Alarm Boxes.—Any person or persons who shall wilfully, maliciously or mischievously interfere with, cut or injure any pole or poles, wire or wires, insulator or insulators, alarm box or alarm boxes, giving false alarm from said box or boxes, breaking the glass in said box or boxes of the fire and police alarm telegram of cities or towns having such signal systems, or any of the appliances or apparatus connected therewith, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be sentenced to hard labor in the State Penitentiary, or on the chaingang, in such counties having chaingangs, for a term of not less than sixty days, or the payment of a fine of not more than two hundred ($200) dollars.

Crim. Code, '12, § 194; Crim. Code, '02, § 156; R. S. 152; 1888, XX, 8; 1904, XXIV, 382

(58) § 30. Making, Mending or Possessing Tools, Etc., to Be Employed in Crime, a Misdemeanor.—A person who makes or mends, or causes to be made or mended, or has in his possession in the day or nighttime, any engine, machine, tool, false key, picklock, bit, nippers, nitroglycerin, dynamite cap, coil or fuse, steel wedges, drills, tap-pins, or other implements or things adapted, designed or commonly used for the commission of burglary, larceny, safe-cracking, or other crime, under circumstances evincing any intent to use or employ, or allow the same to be used or employed, in the commission of a crime, or knowing that the same are intended to be so used, shall, upon conviction, be guilty of a misdemeanor. In either case he shall, upon conviction, be punished at the discretion of the Court.

Crim. Code, '12, § 195; 1907, XXV, 580.

(59) § 31. Altering and Removing Landmarks, a Misdemeanor.—If any person or persons shall, knowingly, wilfully, maliciously or fraudulently, cut, fell, alter or remove any certain boundary tree, or other allowed landmark, such person or persons so offending, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding one hundred dollars, or imprisoned not exceeding thirty days.

Crim. Code, '12, § 197; 1902, XXIII, 1094.

(60) § 32. Drawing and Uttering Fraudulent Check.—Any person who shall hereafter in his own name or as an attorney in fact for any other person or persons, or as an officer or agent of any corporation, unincorporated association, society or company, draw and utter any check, draft or order upon a bank, banking house, person, firm or corporation with which or whom he or the person or persons or any corporation, association, society or company for whom he is then acting, have not at the time of the drawing or presentation for payment of such check, draft or order, sufficient funds to meet the same, and shall thereby obtain from another money or other thing of a value, or induce such person to surrender or postpone any remedy he may have against such drawer or the person or corporation represented by him, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by fine or imprisonment, in the discretion of the Court; the offense to be within the jurisdiction of the Magistrate's Court if the value of the property obtained be less than twenty dollars and be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days: *Provided,* That if such person shall deposit with the drawee of such paper within thirty days from the date thereof funds sufficient to meet the same with all costs and interest which may have accrued, the prosecution under this Section shall be discontinued.

Crim. Code, '12 § 208; 1909, XXVI, 21: 1914, XXVIII, 489.

Post-dated check: State *v.* Winter, 98 S. C. 295; 82 S. E. 419.

(61) § 33. Unlawful Fraudulently to Use Name of Corporation or Appropriate Its Property.—An officer, agent, clerk or servant of a corporation which is organized, or doing business in this State, who wilfully uses the name of such corporation, or his own name as such officer, agent, clerk or servant to obtain money, or anything of value or credit upon

the credit of such corporation for his own use or benefit, without authority from such corporation, or who fraudulently lends, invests or appropriates the money or disposes of the property of such corporation, or fraudulently converts it, shall be punished by imprisonment in the State prison for not more than ten years.

Crim. Code, '12, § 210; 1909, XXVI, 21.

(62) § 34. Stealing Melons and Fruit—Punishment—Whoever shall steal from the premises of another any melons or fruits, whether severed from the freehold or not, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by imprisonment for not more than thirty days, or by fine of not more than fifty dollars.

Crim. Code, '12, § 218; Crim. Code, '02, § 166; R. S. 162; 1886, XIX, 522.

(63) § 35. Obtaining Goods Under False Tokens or Letters in Another's Name.—Whoever shall, falsely and deceitfully, obtain or get into his or their hands or possession, any money, goods, chattels, jewels or other things, of any other person or persons, by color and means of any false token or counterfeit letter made in any other man's name, every person or persons so offending, and being thereof lawfully convicted, shall suffer such imprisonment as the Court may adjudge: *Provided,* That when the money, goods, chattels and other things so obtained do not exceed in value twenty dollars, then the said offense shall be punished by a fine not to exceed one hundred dollars, or by imprisonment for a term not exceeding thirty days.

Crim. Code, '12, § 219; Crim. Code, '02, § 167; 33 H. 8, c. 1; 1712, II, 476; 1894, XXI, 824.

Cheating by false token. State *v.* Stroll, 1 Rich. 244.

Proof of obtaining the satisfaction of a debt by false pretenses will not sustain an indictment charging the obtaining of money by false pretenses. State *v.* Daniel, 83 S. C. 309, 65 S. E. 236.

Motion to direct verdict of acquittal or for new trial. *Ib.* Also, State v. Lopoz, 82 S. C. 368, 64 S. E. 144.

(64) § 36. Obtaining Property by False Pretenses.—Any person who shall, by any false pretense or representation, obtain the signature of any person to any written instrument, or shall obtain from any other person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud any person of the same, shall be guilty of a misdemeanor, and shall, on conviction, be sentenced to pay a fine not exceeding five hundred dollars, and undergo an imprisonment not exceeding three years: *Provided, always,* That if the sum in the written instrument or the value of the property so obtained does not exceed twenty dollars, the punishment shall be by fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days: *And provided, further,* That if, upon the trial of any person indicted for such a misdemeanor, it shall be proved that he obtained the property in such a manner as to amount in law to larceny, he shall not, by reason thereof, be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

Crim. Code, '12, § 220; Crim. Code, '02, § 168; G. S. 2499; R. S. 162; 1876, XVI, 39; 1893, XXI, 507; 1894, XXI, 824.

CONSTRUED—
False pretense is such a fraudulent representation of an existing or past fact, by one who knows it not to be true, as is adapted to induce the person to whom it is made to part with something of value. A mere promise to do something in the future is not such a pretense. State *v.* Haines, 23 S. C. 170.
Obtaining goods by means of false representation as to the balance due on a note. State v. Freeman, 43 S. C. 105, 20 S. E. 974.
False pretense defined. State *v.* Stone, 95 S. C. 390, 79 S. E. 108.
INDICTMENT—
Should charge that the defendant made the false pretenses at the time, knowing them to be false. *Ib.*
On an indictment for obtaining money from a county by false pretenses, it is immaterial whether the County Supervisor and Commissioner knew of, and participated in, the fraud or not. State *v.* Talley, 77 S. C. 99, 57 S. E. 618, 122 Am. St. Rep. 559, 11 L. R. A., N. S., 938n.
Form of indictment. State *v.* Stone, *supra.*
EVIDENCE—
It must be shown that a false pretense was made, knowing it to be false, and that it was made with intent to defraud. Such intent is a question of fact for the jury. State *v.* Hicks, 77 S. C. 289, 57 S. E. 842.

(65) § 37. Stealing Grain or Cotton From the Field.—Whoever shall steal from the field any grain, cotton or vegetables, whether severed from the freehold or not, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by imprisonment for not more than five years, or by fine of not more than five hundred dollars; except that when the amount stolen shall not exceed ten dollars in value, the punishment shall be by imprisonment for not more than thirty days nor less than twenty days, or by a fine of not more than one hundred nor less than fifty dollars.

Crim. Code, '12, § 221; Crim. Code, '02, § 169; G. S. 2487; R. S. 164; 1826, VI, 284; 1866, XIII, 405; 1879, XVII, 77; 1885, XIX, 140; 1903, XXIV, 111.

Corn growing in the field is included in this Section, though not severed from the soil. State *v.* Stephenson, 2 Bail. 334.
Peas are included under grain. State *v.* Williams, 2 Strob. 475.
INDICTMENT—
Fatally defective, that charges stealing corn "in the field" instead of "from the field." State *v.* Shuler, 19 S. C. 142; State *v.* Nelson, 28 S. C. 16, 4 S. E. 792.
Under indictment for this offense, defendant cannot be found guilty of petit larceny. State *v.* Washington, 26 S. C. 604, 2 S. E. 623.
JUDGMENT—
Arrested, because defendant was convicted of petit larceny. State *v.* Washington, 26 S. C. 604, 2 S. E. 623.
The Act of 1893, XXI, 411, attempting to give Magistrates jurisdiction where the property did not exceed $20 in value, held unconstitutional in State *v.* Crosby, 51 S. C. 247, 28 S. E. 529. And the provision as to larceny from the field was left out of the amended Act of 1894, XXI, Stats, 824.
A laborer working under a verbal contract with a farmer for a part of the crop may commit a larceny by taking and carrying away a portion of the crop with intent to steal it. State *v.* Saunders, 52 S. C. 582, 30 S. E. 616; State *v.* Gay, 1 Hill 364.
Judge not required to give sentence to fine or imprisonment in the alternative. State *v.* Davis, 86 S. C. 208, 68 S. E. 532.

(66) § 38. Fraudulent Impersonation of Officers a Misdemeanor—Penalty.—Whoever, with intent to defraud either the State of South Carolina, any county or municipal government or any person, shall falsely assume or pretend to be an officer or employee acting under the authority of the government, county, State or municipal, or any department therof, and shall take upon himself or herself to act as such officer or shall in such pretensive or pretended character demand, obtain, or receive from any person or persons or any officer of the State, county or municipal government any money, paper, document or other valuable things shall be guilty of a misdemeanor and be punished by fine or imprisonment, or by fine and imprisonment, in the discretion of the Court: *Provided,* That if the property or thing obtained shall be of less value than twenty ($20.00) dollars, the fine shall not exceed one hundred ($100.00) dollars, or imprisonment for thirty days and shall be in the jurisdiction of the Magistrate's Court.

1920, XXXI, 753.

(67) § 39. **Wilful Injury to Court House or Jail.**—If any person shall wilfully injure or destroy any part of any court house or jail in this State, or the enclosures of the same, or any part thereof, such person shall be liable to be indicted for such offense, and, upon conviction, be fined or imprisoned, at the discretion of the Court.

Crim. Code, '12, § 942; Crim. Code, '02, § 656; G. S. 2708; R. S. 543; 1827, VI, 321.

(68) § 40. **Keeping of Sheep Killing Dogs Prohibited.**—All persons are hereby prohibited from buying, selling, receiving, giving away, or otherwise owning, controlling, having or keeping in possession any dog or dogs commonly called "sheep-killing," and known to be such. The violation, knowingly, in any one or all respects, of the foregoing prohibition, shall be a misdemeanor, punishable, upon conviction, by a fine of not exceeding one hundred dollars, or imprisonment for not exceeding thirty days.

Crim. Code, '12, § 212; 1909, XXVI, 121.

(69) § 41. **Burning Stacks of Corn, Etc., in Daytime.**—Whoever shall maliciously, unlawfully, and wilfully burn, or cause to be burned or destroyed, any ricks or stacks of corn, or grain, or kilns, in the daytime, shall be adjudged guilty of a misdemeanor, and liable to be fined and imprisoned, in the discretion of the Court, for said offense.

Crim. Code, '12, § 213; Crim. Code, '02, § 158; G. S. 2495; R. S. 155; 1828, VI, 367.

By construction of similar words in Statutes 22 and 23, Charles II, Chapter 7, it seems that the words "burn or caused to be burned or destroyed," in this Section mean that the property must be demolished or unfitted for its purpose, and that by the use of fire. State *v.* DeBruhl, 10 Rich. 23.

(70) § 42. **Burning Carts, Wood, Etc.**—Whoever shall maliciously, wilfully, and unlawfully burn, or cause to be burned, any wain, cart, laden or to be laden, with coals or any other goods or merchandise, of any other person or persons, or maliciously, wilfully and unlawfully do burn, or cause to be burned, any heap of wood of any other person, prepared, cut, and felled, or to be prepared, cut, or felled, for making of coals, billets, or talwood, shall not only lose and forfeit unto the party grieved treble damages for such offense, to be recovered by action, but also shall be punished by fine and imprisonment, in the discretion of the Court.

Crim. Code, '12, § 214; Crim. Code, '02, § 159; G. S. 2496; R. S. 156.

(71) § 43. **Carrying Fire on Lands of Another, Without Permit.**—It shall be unlawful for any person to carry a lighted torch, chunk, or coals of fire, in or under any mill or wooden building, or over and across any of the enclosed or unenclosed lands of another person at any time without the special permit of the owner of such lands, mill or wooden building, whether any damage result therefrom or not. Any person, upon conviction of a violation of the provisions of this Section, shall be deemed guilty of a misdemeanor, and shall be subject to imprisonment in the county jail for a term not to exceed thirty days, or to a fine not to exceed one hundred dollars.

Crim. Code, '12, § 216; Crim. Code, '02, § 161; R. S. 158; 1891, XX, 1045.

(72) § 44. **Burning, Cutting, Etc., Untenanted or Unfinished Buildings—Punishment.**—Whoever shall maliciously, unlawfully and wilfully

burn or cause to be burned, cut or cause to be cut or destroyed, any untenanted or unfinished house or building of any frame or frames of timber of any other person, made and prepared, or hereafter to be made or prepared, for or towards the making of any house or houses, so that the same shall not be suitable for the purposes for which it was prepared; and any tenant or tenants who shall wilfully and maliciously cut, deface, mutilate, burn, destroy or otherwise injure any dwelling house, outhouse, erection, building or crops then in the possession of such tenant or tenants, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine or imprisonment, or both, in the discretion of the Court.

Crim. Code, '12, § 217; Crim. Code, '02, § 162; G. S. 2845; R. S. 159; 27 H. S, c. 6, 1712, II, 478; 1887, XIX, 794; 1911, XXVII, 129.

CHALLENGES—
Defendant only entitled to five peremptory. State *v.* Workman, 15 S. C. 540.
DEFENSE—
Not, upon trial for burning an untenanted house, that prisoner had been acquitted on trial for arson for same burning. State *v.* Jenkins, 20 S. C. 351.
Plea of *autre fois acquit* was properly overruled upon trial on a second indictment, when the first had been quashed, because it charged the offense to have been committed at a future day. State *v.* Jenkins, 20 S. C. 351.
EVIDENCE—
Whether a confession was free and voluntary depends upon circumstances, and is a question for the Circuit Judge in his discretion to decide. State *v.* Workman, 15 S. C. 540.
Confession of one not testimony against his codefendant; but it was not error to allow it in full, without suppression of name of codefendant, the jury having been instructed that it was testimony only against the party who made it. State *v.* Workman, 15 S. C. 540.
Two men being tried jointly for same crime, wife of one not competent witness for her husband, nor, as to any common ground of defense, for the other. State *v.* Workman, 15 S. C. 540.
NEW TRIAL—
Motion for, on ground of after-discovered evidence, properly refused, where the affidavits did not show that it could not, by due diligence, have been discovered before trial. State *v.* Workman, 15 S. C. 540.
Indictment not sufficient under this Section. State *v.* Jeter, 47 S. C. 2, 24 S. E. 889.

(73) § 45. Malicious Wounding of Horses, Etc.—Whoever shall wilfully, unlawfully and maliciously cut, shoot, maim, wound or otherwise injure or destroy any horse, mule, neat cattle, hog, sheep, goat, or any other kind, class, article, or description of personal property, the goods and chattels of another, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, at the discretion of the Judge before whom the case shall be tried: *Provided*, That when the injury or loss of the property affected by such act or acts does not exceed twenty dollars, the punishment shall be a fine of not more than one hundred dollars, or imprisonment for a period of not more than thirty days.

Crim. Code, '12, § 222; Crim. Code, '02, § 170; G. S. 2500; R. S. 165; 37 H. S, c. 6; 1712, II, 478; 22 and 23 C. 3, c. 7; 1712, II, 521; 1857, XII, 605; 1861, XII, 903; 1892, XXI, 115; 1894, XXI, 824.

Act 1857 not repealed by the Act of December 19, 1865. State *v.* Alexander, 14 Rich. 247.
Not determined whether a dog is embraced in the term "other personal property." State *v.* Trapp, 14 Rich. 203.
Unlawfully and maliciously turning oil out of a tank is embraced in the term "any other personal property." State *v.* Switzer, 59 S. C. 225, 37 S. E. 818.
Malicious injury to cow. State *v.* Howard, 15 Rich. 274.
INDICTMENT—
Is sufficient if it contain a general description of the offense in the words of the Section, although the manner of killing be not described. State *v.* Cantrell, 2 Hill 389.
If a charge that prisoner shot "one sow," it is good. State *v.* Shubrick, 2 S. C. 21.
EVIDENCE—
Evidence of malice. State *v.* Murphy, 86 S. C. 268, 68 S. E. 570.
Not necessary to prove malice towards the owner of the property. State *v.* Toney, 15 S. C. 409; State *v.* Doig, 2 Rich. 179.
The capacity of defendant under fourteen years of age to commit the crime may be determined by the facts of the case, without independent evidence thereof. *Ib.*
Where a defendant admits that he is on bad terms with another, he cannot be asked as to special collateral acts of bad humor. Cobb *v.* Cater, 59 S. C. 462, 38 S. E. 114.
If one puts out poison with intent to kill his neighbor's animals, he is liable. *Ib.*
Defending premises against trespassing animals. State *v.* Murphy, 86 S. C. 268, 68 S. E. 570.

(74) § 56. Malicious Injury to Trees, Houses, Etc.—Whoever shall wilfully, unlawfully, and maliciously cut, mutilate, deface, or otherwise injure, any tree, house, outhouse, fence, or fixture of another, or commit any other trespass upon real property in the possession of another, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined and imprisoned, at the discretion of the Judge before whom the case shall be tried: *Provided,* That when the damage to such property does not exceed twenty dollars, the punishment shall be a fine of not more than one hundred dollars, or imprisonment for a period of not more than thirty days.

Crim. Code, '12, § 223; Crim. Code, '02, § 171; G. S. 2501; R. S. 166; 1857, XII, 605; 1892, XXI, 93; 1893, XXI, 411; 1894, XXI, 824.

CONSTRUED—

A mere license to plant the land in possession of owner does not give such possession of real property required by the Section as would sustain an indictment for malicious trespass for cutting up the crop planted. State *v.* Gadsden, 20 S. C. 456.

Magistrates had no jurisdiction of this offense before Act of 1892, the punishment being left to the discretion of the trial Judge. State *v.* Mays, 24 S. C. 190.

The General Sessions has no jurisdiction where the damage from fire to fodder house and corn crib does not exceed twenty dollars. State *v.* Jeter, 47 S. C. 2, 24 S. E. 889.

The Magistrate is not deprived of jurisdiction by a plea of title to land. State *v.* Holcomb, 63 S. C. 60, 40 S. E. 1017.

(75) § 47. Merger of Civil Injury in Crime.—Whenever any person shall be prosecuted for any of the misdemeanors in the two preceding Sections created, the owner of the property injured shall not have the right to maintain a civil action for the same injury.

Crim. Code, '12, § 224; Crim. Code, '02, § 172; G. S. 2502; R. S. 167; 1857, XII, 605.

(76) § 48. Burning, Cutting, Etc., Untenanted or Unfinished Buildings—Injury Done by Tenants—Punishment.—Whoever shall maliciously, unlawfully and wilfully burn, or cause to be burned, cut, or cause to be cut or destroyed, any untenanted or unfinished house or building or any frame, or frames or timber, of any other person, made and prepared, hereafter to be made or prepared, for or towards the making of any house or houses, so that the same shall not be suitable for the purpose for which it was prepared; and any tenant or tenants, who shall wilfully or maliciously cut, deface, mutilate, burn, destroy or otherwise injure any dwelling house, outhouse, erection, building or crops then in possession of such tenant or tenants, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine or imprisonment, or both, in the discretion of the Court.

Crim. Code, '12, § 225; Crim. Code, '02, § 162; G. S. 2845; R. S. 159; 27 H. S, c. 6; 1712, II, 478; 1887, XIX, 794; 1911, XXVII, 129.

(77) § 49. Penalty for Marking or Disfiguring Animals of Another.—Whoever shall be lawfully convicted of wilfully and knowingly marking, branding or disfiguring any horse, mare, gelding, filly, ass, mule, bull, cow, steer, ox or calf of, or belonging to, any other person, shall, for each and every horse, mare, gelding, colt, filly, ass, mule, bull, cow, steer, ox or calf which he shall or may be convicted of marking, branding or disfiguring as aforesaid, be subject to a penalty of one hundred dollars, or to imprisonment for a term not exceeding six months, or both, in the discretion of the Court; and in case the said offender shall afterwards repeat or commit a like offense, on conviction thereof he shall be liable to a fine

of two hundred dollars, or to imprisonment for a term not exceeding one year, or both, in the discretion of the Court, for each and every horse, mare, gelding, colt, filly, ass, mule, bull, cow, steer, ox or calf by him so marked, branded or disfigured.

Crim. Code, '12, § 226; Crim. Code, '02, § 173; G. S. 2503; R. S. 168; 1789, V, 139; 1892, XXI, 115.

Applies only to such fraudulent marking etc., as intended to prevent the owner from knowing his property. Shelton *v.* Gage, Chev. 108.

Shaving the mane and cropping the hair from the tail of a mare does not constitute the offense of disfiguring. State *v.* Smith, Chev. 157.

INDICTMENT—

Is sufficient it seems, if it charge the offense in the general terms of the Section. *Ib.*

(78) § 50. Penalty for Marking Smaller Animals of Another—Second Offense.—Whoever shall be lawfully convicted of wilfully and knowingly marking, branding or disfiguring any sheep, goat or hog of, or belonging to, any other person shall, for each and every sheep, goat or hog which he shall or may be convicted of marking, branding or disfiguring, as aforesaid, be subject to a penalty of twenty-five dollars, or to imprisonment for a term not exceeding twenty days; and, in case the said offender shall afterwards repeat or commit a like offense, on conviction thereof he shall be liable to a fine of fifty dollars, or to imprisonment for a term not exceeding thirty days for each and every sheep, goat or hog by him so marked, branded, or disfigured.

Crim. Code, '12, § 227; Crim. Code, '02, § 174; G. S. 2504; R. S. 169; 1789, V, 140; 1892, XXI, 115.

Indictment for marking a hog. State *v.* Nichols, 12 Rich. 672.

(79) § 51. Cutting or Floating Trees, Etc., in Rivers at Night Without Sufficient Light or Men.—Any person who shall be found guilty of cutting any trees or tree tops, brush or logs, or throwing any refuse material whatever into any navigable river or harbor in South Carolina, or who shall float logs singly or in rafts in any manner whatsoever without being properly or plainly lighted at night, and attended by day with sufficient number of men to prevent said rafts and logs from negligently damaging property along the river banks, or from catching on snags, sinking and forming obstructions, or in any manner whatsoever interfering with the navigation or obstructing said rivers or harbors, shall be deemed guilty of a misdemeanor, and punished by fine not exceeding two hundred and fifty dollars, or by imprisonment not exceeding two years. And all such trees, logs, rafts floating booms or pens of timber dangerous to navigation in said river may be captured and secured and properly rafted to market and sold, one-half of the net proceeds over the expense of capturing and marketing to be paid to the County Treasurer of the county in which such timber may be captured, and the other half to the person or persons capturing the same: *Provided,* This Section shall not apply to logs or timber accidentally drifting loose from a raft or from any stationary boom where timber is kept for proper use or for proper rafting, or to any logs floated off from the owner by a sudden freshet before his having an opportunity to raft the same.

Crim. Code, '12, § 235; Crim. Code, '02, § 181; G. S. 2505; R. S. 175; 1894, XXI, 715; 1897, XXII, 426.

(80) § 52. Unlawful to Leave Abandoned Wells Open.—It shall be unlawful for any owner or tenant to permit or allow any abandoned wells to remain open and unprotected, curbed or fenced in, on any place or premises owned or occupied in this State.

Any person convicted of allowing or permitting such abandoned wells to remain open and unprotected, curbed or fenced in, shall be fined in the sum of ten dollars, or imprisoned not more than thirty days.

Crim. Code, '12, § 240; 1904, XXIV, 383.

(81) § 53. Entry on Lands of Another After Notice Prohibiting Same a Misdemeanor.—Every entry upon the lands of another, after notice from the owner or tenant prohibiting the same, shall be a misdemeanor, and be punished by fine not to exceed one hundred dollars, or imprisonment with hard labor on the public works of the county not exceeding thirty days: *Provided,* That whenever any owner or tenant of any lands shall post a notice in four conspicuous places on the borders of any land prohibiting entry thereon, and shall publish once a week for four consecutive weeks such notice in any newspaper circulating in the county where such lands are situate, a proof of the posting and of publishing of such notice within twelve months prior to the entry, shall be deemed and taken as notice conclusive against the person making entry as aforesaid for hunting and fishing.

Crim. Code, '12, § 241; Crim. Code, '02, § 186; G. S. 2507; R. S. 176; 1866, XIII, 406; 1883, XVIII, 43; 1898, XXII, 811.

CONSTRUED—

Its terms must be taken in their ordinary acceptation, and they do not restrict the offense to those only who so enter under claim of title. State *v.* Cockfield, 15 Rich. 53.

Nor do they limit the remedy to person holding the legal title, but extend it to the tenant at will State *v.* Green, 35 S. C. 266, 14 S. E. 619.

Such entry is a misdemeanor without regard to intention. *Ib.*

A tenant leasing land for the calendar year, but not going into actual possession until several days after the first of January, is the owner or tenant of the land from January 1st. State *v.* Gay, 76 S. C. 83, 56 S. E. 668.

WARRANT—

Affidavit for, must show plainly that the offense charged is entry upon lands with notice, and not mere trespass upon them. State *v.* May, 24 S. C. 190.

Affidavit alleging trespass after notice sufficient. State *v.* Tenny, 58 S. C. 215, 36 S. E. 555; State *v.* Hailback, 40 S. C. 298, 18 S. E. 919.

(82) § 54. Unlawful to Enter Lands for Certain Purposes.—Any person or persons entering upon the lands of another, for any one of the following purposes, of hunting, fishing, trapping, netting, gathering fruit, straw or turf, vegetables, herbs or cutting timber on the same, without the consent of the owner or manager thereof, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine of not more than twenty ($20) dollars, or be imprisoned at hard labor not more than thirty (30) days, for each and every offense.

Crim. Code, '12, § 242; 1905, XXIV, 906.

(83) § 55. Entry Without Permission on Lands to Gather Shell Fish for Sale a Misdemeanor.—It shall be unlawful for any person or persons to enter upon any lands owned or leased by another without the permission of the owner or the lessee, for the purpose of gathering clams, oysters or other shell fish for sale. Any person or persons entering upon the lands of another without permission from the owner or lessee of said lands for the purpose of gathering clams, oysters or other shell fish for sale, shall

be deemed guilty of a misdemeanor and shall be fined not less than twenty ($20.00) dollars, nor more than one hundred ($100.00) dollars, for each and every offense, or punished by imprisonment for not less than five days nor more than thirty days.
1920, XXXI, 998.

(84) § 56. Trespassing on State House Grounds Forbidden.—It shall be unlawful for any person or persons to trespass upon the grass plots or flower beds of the State House grounds, to cut down, deface, mutilate or otherwise injure any of the trees, shrubs, grasses or flowers on said grounds, or to commit any other trespass upon any property of the State, real or personal, located thereon.

Watchmen Made Constables.—For the purpose of enforcing the provisions of this Section, the Watchmen of the State House, or either of them, shall have power to arrest any person or persons committing said trespass upon said grounds, and to carry any person or persons so arrested before either of the Magistrates of the City of Columbia, to be dealt with as shall be hereinafter directed; and for such purpose the said Watchmen shall have all the powers, privileges and immunities of Constables.

Punishment for Trespass.—Any person or persons who shall violate the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof before either of the Magistrates of the City of Columbia, shall be fined not less than five nor more than one hundred dollars, or be imprisoned not less than five nor more than thirty days.
Crim. Code, '12, § 243; Crim. Code, '02, § 187; R. S. 177; 1889, XX, 317.

(85) § 57. Embezzling, Stealing, Defacing or Damaging Books, Etc., a Misdemeanor.—Any person wilfully embezzling, stealing, defacing, damaging or in any manner mutilating or destroying while in his possession or in the custody of the State Librarian, any book, document, or other property, confided to the safekeeping of the State Librarian, or any person wilfully violating any of the rules and regulations prescribed by the Board of Trustees for the management of the State Library, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days.

Trustees to Enforce Above Section—Disposition of Fine.—The said Board of Trustees are hereby charged with the enforcement of this Section. All fines when collected shall be paid into the State Library fund and shall be expended for the increase of the State Library.
Crim. Code, '12, § 244; Crim. Code, '02, § 188; 1898, XXII, 764.

(86) § 58. Misdemeanor to Place Any Explosives on Railroad Rails.—It shall be unlawful for any unauthorized person or persons to place any explosive substance whatever upon the rail of any railroad, whether operated by steam, electricity or otherwise, in this State, and any person or persons who violates the provisions of this Section, or aids or assists therein, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred

dollars, or imprisonment not exceeding thirty days, in the discretion of the Court or Magistrate.

Crim. Code, '12, § 247; 1905, XXIV, 904.

(87) § 59. **Penalty for Injuring Railroads.**—Whoever wilfully and maliciously injures in any way any railroad or electric railway, or anything appertaining thereto, or any material or instrument for the construction or use thereof, or aids or abets in such trespass, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year. Whoever commits any of the acts mentioned in this Section in such manner as thereby to endanger life, shall be punished as herein provided, or by imprisonment in the Penitentiary not exceeding twenty years.

Crim. Code, '12, § 248; Crim. Code, '02, § 191; G. S. 1518, 1519; R. S. 180; 1882, XVII, 832; 1906, XXV, 47.

(88) § 60. **Punishment for Breaking or Shooting Into Cars.**—Whoever breaks and enters, in the nighttime, any railroad or electric railway car, or enters in the nighttime without breaking, or breaks and enters in the daytme, or shoots with any firearm into any railroad or electric railway car, with intent to commit the crime of larceny, or any other crime, shall, in addition to any other punishment now prescribed by law for such offence, be punished by imprisonment in the State Penitentiary not exceeding ten years, or by fine not exceeding five hundred dollars.

Crim. Code, '12, § 249; Crim. Code, '02, § 192; G. S. 1522; R. S. 181; 1882, XVII, 833; 1906, XXV, 47.

Indictment for. State *v.* Crawford, 38 S. C. 330, 17 S. E. 36.

(89) § 61. **For Injury to Electric Signals.**—Whoever unlawfully and intentionally injures, molests, or destroys any of the electric signals of a railroad or electric railway corporation, or any of the lines, wires, posts, or any other structure or mechanism used in connection with such signals on any railroad, electric railway, or destroys, or in any way interferes with, the proper working of such signals, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding two years, or both.

Crim. Code, '12, § 250; Crim. Code, '02, § 193; G. S. 1523; R. S. 182; 1882, XVII, 834; 1906, XXV, 47.

(90) § 62. **Unlawful to Injure Electric Lines and Appurtenances.**—Every person who unlawfully or maliciously takes down, removes, injures, interferes with, or obstructs any wire or poles erected by any telegraph or telephone company, or maintained by proper authority for the purpose of transmitting intelligence, or any part thereof, or any insulator or cross-arms, appurtenance or apparatus connected therewith, or unlawfully severs or in any way unlawfully interferes with any wire, cable, or current thereof, upon conviction shall be deemed guilty of a misdemeanor and punishable by imprisonment not exceeding thirty days, or by fine not exceeding one hundred dollars.

Crim. Code, '12, § 251; 1902, XXIII, 1102; 1904, XXIV, 443.

(91) § 63. **Unlawful to Injure or Interfere With Electric Lines—Penalty.**—It shall be unlawful for any person within the State of South

Carolina, wilfully and wantonly, and without the consent of the owner, to take down, remove, injure, obstruct, displace, or destroy any line erected or constructed for the transmission of electrical current, or any poles, towers, wires, conduits, cables, insulators, or any support upon which wires or cables may be suspended, or any part of any such line or appurtenances or apparatus connected therewith, or to sever any wire or cable thereof, or in any manner to interrupt the transmission of electrical current over and along any such line, or to take down, remove, injure or destroy, any house, shop building, or other structure or machinery connected with or necessary to the use of any line erected or constructed for the transmission of electrical current, and to wantonly or wilfully cause injury to any of the property mentioned in this Section by means of fire; and any person or persons violating any of the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned not longer than one year, or both fined or imprisoned, in the discretion of the Court: *Provided,* Nothing herein contained shall operate to prevent any person from removing any such wires or apparatus affixed to his private property without his consent.

Crim. Code, '12, § 252; 1908, XXV, 1078; 1904, XXIV, 443; 1902, XXIII, 1102.

(92) § 64. Interference With Sewers Prohibited—Damages to Prohibited—Penalty.—No person shall turn, remove, raise, or in any manner tamper with any cover of any manhole, filter, bed or other appurtenance of any public sewer, without a written permit from the proper authorities of such works; and no person except those engaged by the proper authorities shall enter any public sewer without special written permit.

And no person shall, either within or without any city or town, obstruct, damage or injure any pipe, ditch, drain, filter, beds or appurtenance of any waterworks, sewerage or drainage of any such city or town.

Every person violating the provisions of this Section shall, upon conviction, be deemed guilty of a misdemeanor, and be subject to a fine not to exceed one hundred dollars, or imprisonment for thirty days.

Crim. Code, '12, § 253; Crim. Code, '02, § 194; 1900, XXIII, 446.

(93) § 65. Failure to Return Boat, Flat, or Tool Used for Mining Phosphate a Misdemeanor.—Any person being intrusted with any boat, flat or tools for gathering phosphate rock, by the owner thereof, for the purpose of mining or gathering phosphate rock, who shall fail to return same to the owner within two days after being required by such owner so to do, shall be guilty of a misdemeanor, and, upon conviction thereof before a Court of competent jurisdiction, shall be fined in the sum of not more than fifty dollars, or imprisoned not more than thirty days, in the discretion of the Court: *Provided,* It shall be a complete defense to any indictment or prosecution instituted under this Section, if the defendant shall make it appear that his or her failure to return the said property was due to his or her inability so to return the same, such inability not being the result of the defendant's act, or that the agreed time in which such

property was to be returned had not expired at the time of his or her failure to return the same.

Crim. Code, '12, § 254; Crim. Code, '02, § 195; 1900, XXIII, 445.

(94) § 66. No Drifted Boat to Be Sold Without Advertisement.—No person shall sell any drifted boat, float, or other water craft, lumber or timber, not the property of such person, without first advertising the sale of same at public auction at least three times, and at least three days prior to the date of such sale, in the newspaper having the greatest circulation in county where said drifted timber, boat or other water craft is found and taken, giving an accurate description of any and all marks by which said boat, float, or other water craft, lumber or timber, may be identified.

Penalty for Violation of This Act.—And if any person shall sell any drifted boat, float or other water craft, lumber or timber, without having first so advertised and without paying the proceeds to the owner on application, after deducting expenses, or if any person having advertised shall refuse to deliver any drifted boat, float or other water craft, lumber or timber, claimed by the rightful owner, prior to the date of same, said owner to pay reasonable salvage expenses, such person shall be liable to indictment for misdemeanor, and fined or imprisoned in the discretion of the Court, and any person who may purchase such drifted boat, float or other water craft, lumber or timber, that has not been advertised as hereinbefore provided, shall be liable to indictment as receiver of stolen goods, and fined or imprisoned in the discretion of the Court.

Crim. Code, '12, § 256; Crim. Code, '02, § 196; G. S. 1622; R. S. 183; 1853, XII, 294; 1907, XXV, 196.

(95) § 67. Penalty for Stealing Crude Turpentine.—Whoever shall steal any crude turpentine of the value of five dollars, whether dipped or scraped from the trees or not, or whether barreled or not, from any place whatsoever, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than one hundred dollars or imprisonment not exceeding thirty days.

Crim. Code, '12, § 257; Crim. Code, '02, § 197; R. S. 184; 1893, XXI, 506.

(96) § 68. Punishment for Negligently Firing Grass, Etc.—Proviso.—Whoever shall wilfully, maliciously or negligently set fire to or burn any grass, brush or other combustible matter, so as thereby any woods, fields, fences or marshes of any other person or persons be set on fire, or cause the same to be done, or be thereunto aiding or assisting, shall, upon conviction thereof, be punished by a fine of not less than twenty-five nor more than five hundred dollars, or imprisonment of not more than one year in the county jail, and shall, moreover, be liable to the action of any person or persons who may have sustained damage thereby: *Provided*, That no person or persons shall be prevented from firing woods, fields, lands or marshes within his own bounds, so that he suffer not the fire to get without the bounds of his lands and injure the woods, fences or grass of his neighbor or neighbors.

Crim. Code, '12, § 215; Crim. Code, '02, § 160; G. S. 2497; R. S. 157; 1787, V, 125; 1857, XII, 617; 1891, XX, 1195; 1919, XXXI, 59.

Prior to the amendment of 1891 only one who *wilfully* sets fire to his neighbor's grass or fence could be indicted under this Section. It did not apply to cases of negligently suffering fire to so burn. State *v.* Lewis, 10 Rich. 20.

CIRCUMSTANTIAL EVIDENCE—

Tracks and offer to compromise. State *v.* Wideman, 68 S. C. 119, 43 S. E. 769.

(97) § 69. Use of Vehicle or Live Stock Without Permission a Misdemeanor.—Whoever knowingly and wilfully shall take and use any motor vehicle, bicycle or other vehicle or horse, mare or mule without the consent of the owner thereof, and without intent to steal the same, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for a period of not more than one year, or both fine and imprisonment, in the discretion of the Court.

Crim. Code, '12, § 228; Crim. Code, 1902, § 175; R. S. 170; 1883, XVIII, 434; 1917, XXX, 43-47.

Charge illustrative of distinction between stealing a horse and taking it to use without consent of owner. State *v.* Sanders, 56 S. C. 415, 35 S. E. 133.

(98) § 70. Disposal or Pledge of Stored Cotton by Warehousemen, Without Consent of Owner, a Misdemeanor—Provisos.—It shall hereafter be a misdemeanor for any person, firm or corporation doing business in this State as a cotton factor or warehouseman and having in their warehouses any cotton on storage the property of another, to either dispose of the said cotton, or any portion thereof by sale, loan, pledge or otherwise to any person, firm or corporation without the consent or approval of the owners of such stored cotton, and upon conviction thereof shall be punished by fine of not more than five hundred dollars or imprisonment for not more than one year: *Provided,* That the rights of persons or corporations holding mortgages over such cotton shall not be abridged or affected by the provisions hereof: *And provided, further,* That rights of persons, firms or corporations who have advanced or loaned, or who may hereafter advance or lend money on such cotton shall not be abridged or affected by the provisions hereof: *Provided, further,* That provisions hereof shall not affect the warehouseman's claim for storage.

1920, XXXI, 984.

(99) § 72. Forgery.—Whoever shall be convicted of falsely making, forging, or counterfeiting, or causing or procuring to be falsely made, forged, or counterfeited, or of wilfully acting or assisting in the false making, forging, or counterfeiting, of any writing or instrument of writing, or of uttering or publishing as true any false, forged, or counterfeited writing or instrument of writing, or of falsely making, forging, counterfeiting, altering, changing, defacing, or erasing, or causing or procuring to be falsely made, forged, counterfeited, altered, changed, defaced, or erased, any record or plat of land, or of willingly acting or assisting in any of the premises, with an intention to defraud any person, shall be guilty of forgery, and shall be sentenced to be imprisoned not less than one year nor more than seven years, and also to pay such fine as may be judged expedient, at the discretion of the Judge who may try the case.

Crim. Code, '12, § 528; Crim. Code, '02, § 373; G. S. 2527; R. S. 295; 1845, XI, 341; 1736-7, III, 470-1, §§ 3-7; 1783, IV, 543; 1801, V, 397.

Forgery is still a common law offense. State *v.* Zimmerman, 79 S. C. 289, 60 S. E. 680; McConnel *v.* Kennedy, 29 S. C. 180, 7 S. E. 76.

The object of the Statute is the enlarging of the offense, and the regulation of the punishment. State *v.* Zimmerman, *Supra.*

The "Three essential elements in the crime of forgery" are: "1. A writing apparently valid. 2. A fraudulent intent on the part of the accused. 3. The falsity of writing, or the fact that the name signed thereon is fictitious." All of which elements must be alleged and proved. State *v.* Bullock, 54 S. C. 300, 32 S. E. 424; State *v.* Murray, 72 S. C. 508, 52 S. E. 189. It is a felony: State *v.* Allen, 56 S. C. 495, 35 S. E. 204; State *v.* Rowe, 8 Rich. 17 But where the indictment follows the language of the Statute defining the crime, it is not defective for failure to charge that the act was done "feloniously." State *v.* Allen, 56 S. C. 495, 35 S. E. 204.

Held to embrace forgery of school claims issued by County Superintendent of Education. State *v.* Allen, 56 S. C. 495, 35 S. E. 204; State *v.* Morton, 51 S. C. 323, 28 S. E. 945. If a witness pay certificate issued by a Clerk of Court. State *v.* Bullock, 54 S. C. 300, 32 S. E. 424.

To embrace the forgery of a receipt on the back of an indent, with fraudulent intent, State *v.* Washington, 1 Bay 120.

And the forgery of an order for the delivery of goods. State *v.* Holly, 2 Bay 262; State *v.* Holly, 1 Brev. 35.

And the altering the words and figures of a bank bill. State *v.* Waters, 3 Brev. 507.

Also, the alteration of a receipt. State *v.* Floyd, 5 Strob. 58.

A false entry in a record with intent to defraud the State. State *v.* Zimmerman, *supra.*

A lease of land. State *v.* Murray, *supra.*

Notwithstanding the Act of 1845, forgery was still considered a felony. State *v.* Rowe, 8 Rich. 17.

If a clerk, keeping the books of a merchant, made false entries therein with fraudulent intent to injure him, and did injure him, the clerk committed forgery. McConnell *v.* Kennedy, 29 S. C. 180, 7 S. E. 76.

INDICTMENT—

Is good, though it describe the instrument as "a warrant or order." State *v.* Holly, 1 Brev. 35.

For "counterfeiting a note of hand, commonly called a promissory note, for the payment of money," is good if the note be set forth in *haec verba.* State *v.* Houseal, 2 Brev. 219. So as to an order. State *v.* Jones, 1 McM. 236.

It must state all the circumstances which constitute the offense. State *v.* Foster, 3 McM. 442.

It is proper to charge the offense of an alteration as a forgery, in the words of the Statute. State *v.* Floyd, 5 Strob, 58; State *v.* Allen, 56 S. C. 495, 35 S. E. 204.

Motion to quash overruled. State *v.* Zimmerman, *supra.*

EVIDENCE—

A fraud committed on the cashier is a fraud committed on the bank he represents. State *v.* Jones, 1 McM. 236.

The utterance of other forged instruments of like nature may be shown. State *v.* Allen, 56 S. C. 495, 35 S. E. 204.

Evidence to support charge of uttering a forged instrument. State *v.* Berry, 76 S. C. 86, 56 S. E. 662.

It must be admitted or acknowledged or established by affirmative testimony that papers are in the handwriting of defendant before they can be received in evidence for the purpose of comparison with the forged paper. State *v.* Ezekiel, 33 S. C. 115, 11 S. E. 635.

On indictment for forgery of one bank bill, it is admissible to prove that the prisoner had passed other forged bills for which indictments were pending. State *v.* Williams, 2 Rich. 420.

Where the paper was issued in duplicate; a duplicate is not a mere copy of the original, but is equally evidence with the first copy issued. State *v.* Allen, 56 S. C. 495, 35 S. E. 204.

JUDGMENT—

Is warranted upon a verdict which finds the passing of a forged note with knowledge of the forgery, State *v.* Fuller, 1 Bay 245.

(100) § 73. Failure to Provide Railing Guards for Ferry Boats a Misdemeanor.—All persons owning or operating any ferry boat or flats which are used on any of the navigable streams of this State, or are landed upon soil thereof, shall place and provide guards or railing around the same so as to protect the lives and property of those using them. Any person violating the provisions of this Section, on conviction thereof, shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars, or imprisoned not exceeding thirty days.

1914, XXVIII, 590.

(101) § 74. Obstruction of Running Streams in Counties Having Less Than Six Hundred Registered Voters a Misdemeanor.—The cutting or felling of trees across or into any of the running streams in all counties which have less than six hundred registered voters, obstructing the same by throwing any timber or other materials therein, or erecting any timber across any such streams, whereby the fall of such streams is lessened, and the flow of the water is obstructed, or whoever, having erected any such obstructions, refuses to remove the same within ten days after notice so to do, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished within the discretion of the Court: *Provided,* That nothing herein contained shall prevent the construction of dams for the pur-

pose of generating power: *Provided,* That each and every obstruction shall be, and is hereby, made a separate and distinct offense.

1918, XXX, 719.

(102) § 75. Obstructing Streams in Certain Counties a Misdemeanor —Power Dams Excepted.—The cutting or felling trees across, or into, any of the running streams of the Counties of Anderson, Bamberg, Barnwell, Colleton, Cherokee, Chester, Greenville, Oconee, Union, Fairfield, Laurens, Newberry, Abbeville, Pickens, Spartanburg and York, obstructing the same by throwing any timber or other materials therein, or erecting a dam across any such stream, whereby the fall in such stream is lessened and the flow of water and sand is obstructed, or the land along said stream above such obstruction is damaged, or the health of the community is endangered, or having erected any such obstruction and refusing to remove the same within eight and forty hours, after notice by any one to do so, shall be deemed a misdemeanor, and any person so convicted shall be punished by a fine of not less than five nor more than one hundred dollars, or imprisonment for not less than ten nor more than thirty days, at the discretion of the Court: *Provided,* That nothing contained in this Section shall apply to the constructing of milldams or dams for the purpose of generating power for any purpose.

Crim. Code, '12, § 236; 1899, XXIII, 102; 1900, XXIII, 448; 1908, XXV, 1040; 1915, XXIX, 80.

See State *v.* Hammond, 66 S. C. 219, 300, 44 S. E. 797, 933.
See cases of State *v.* Tucker, 54 S. C. 251, 32 S. E. 361, 56 S. C. 516, 35 S. E. 215.
Balentine *v.* Hammond, 68 S. C. 153, 160, 46 S. E. 1000.
Rev. Stat. 1275, as amended by 23 Stat. 448, is in violation of Const., 1895, art. III, § 34, as special legislation. State *v.* Hammond, 66 S. C. 219, 44 S. E. 797.

(103) § 76. Duty of Landowners to Clean Out Their Streams.—It shall be the duty of all landowners to clean out all streams upon and adjacent to their lands at least twice in each year, at such particular times as said Boards may appoint, and according to the directions of said Boards, and to keep the same clear of all obstructions to a free and uninterrupted flow of sand and water through the channels thereof: *Provided,* That this Section shall not be construed to prevent the erection and maintenance of any dam across any of said streams for any useful purpose: *Provided, further,* That said Boards shall have power and authority to require the owner of any such dam to build and maintain therein suitable and sufficient floodgates and waterways to afford free passage through the same of the sand and water, so that the streams above may be properly cleaned out and the lands adjacent thereto properly drained, for which purpose they may require the owner of any such dam to open the floodgates or waterways therein and keep them open for such reasonable time as they may deem to be necessary. Any person violating any of the provisions of this Section shall be deemed guilty of maintaining a nuisance, and, upon conviction, shall be fined not more than fifty dollars, or imprisoned not more than thirty days: *Provided,* That ten days notice to abate such nuisance shall have been given.

Crim. Code, '12, § 237; Crim. Code, '02, § 183; 1900, XXIII, 399.

State *v.* Hammond, 66 S. C. 300, 44 S. E. 933.
Now Constitutional—
Pierce *v.* Marion County Lumber Co., 108 S. C. 387; 94 S. E. 865.

(104) § 77. Obstructing Streams a Misdemeanor.—Any person who shall fell, cut or throw, or cause to be felled, cut or thrown, across or into any of said streams, any tree, log or other timber, or any trash, brush, debris or obstruction of any kind whatsoever, shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not more than fifty dollars, or imprisonment for not more than thirty days.

Crim. Code, '12, § 238; Crim. Code, '02, § 184; 1900, XXIII, 399.

See note to § 103, ante. State *v.* Hammond, 66 S. C. 300, 44 S. E. 933. Pierce *v.* Marion County Lumber Co., 108 S. C. 387; 94 S. E. 865.

(105) § 78. Exemptions from Operation of Sections (103) and (104).—The provisions of Sections (103) and (104) shall not apply to nor be enforced in the following counties, to wit: Bamberg, Aiken, Greenwood, Colleton, Dorchester, Fairfield, Clarendon, Union, Chesterfield, Sumter, Darlington, Richland, Berkeley, Lancaster, Barnwell, Hampton, Florence, Beaufort, Horry, Kershaw, Lexington, Marlboro, Pickens, York, Abbeville, Georgetown, Williamsburg, Saluda, Anderson and Oconee.

Crim. Code, '12, § 239; Crim. Code, '02, § 185; 1900, XXIII, 399; 1916, XXIX, 782.

(106) § 79. Digging Ginseng on Land of Another.—Where any person in this State shall plant ginseng upon any lands belonging to such person or persons, whether the same be enclosed or not, then it shall be unlawful for any person to dig said ginseng at any time of the year without the permission of the person so planting the same; and any person convicted of a violation of the provisions of this Section shall be fined for each and every such offense not exceeding one hundred dollars, or imprisonment for a term not exceeding thirty days.

Crim. Code, '12, § 298; Crim. Code, '02, § 232; 1899, XXIII, 92.

(107) § 80. Defrauding Hotels, Hospitals, Etc.—Any person who shall at any hotel, inn or boarding house or hospital, order and receive or cause to be furnished any food or accommodation based upon contract with intent to defraud the owner or proprietor of such hotel, inn or boarding house or hospital, out of the value or price of such food or accommodation based upon contract; and any person who shall obtain credit at any hotel, inn or boarding house or hospital by the use of any false pretense or devise, or by fraudulently depositing at such hotel, inn or boarding house or hospital, any baggage or property of less value than the amount of such credit or of the bill by such person incurred, unless credit be given by express agreement; and by any person who, after obtaining credit or accommodation based upon contract at any hotel, inn or boarding house or hospital, and shall surreptitiously remove his or her baggage or property therefrom, shall be deemed guilty of a misdemeanor. Proof that lodging, food or other accommodation based upon contract was obtained by false pretense or by false or fictitious show or pretense of baggage, or that he absconded without paying or offering to pay for such food, lodging or other accommodation based upon contract or that he surreptitiously removed or attempted to remove his or her baggage, shall be *prima facie* proof of the fraudulent intent mentioned in this Section. Any person convicted of violating the provisions of this Section shall pay a fine of not more than fifty dollars, or be imprisoned for not more than thirty days,

in the discretion of the Magistrate: *Provided,* The provisions of this Section shall not include the fees of physicians and surgeons.

Crim. Code, '12, § 300; 1911, XXVII, 150; 1917, XXX, 165.

(108) § 81. Procuring Board by Making Falsely Written Representations.—Any person who procures board and lodging or board from any boarding house or innkeeper in this State upon the representation in writing that there is money due or to become due to him, to be paid on a future day, out of which he promises to pay for such board and lodging or board, and fails or refuses to so apply such money when collected by him, shall be guilty of a misdemeanor, and, on conviction, shall pay a fine not exceeding fifty dollars, or be imprisoned not more than thirty days: *Provided,* That if such person shall pay the amount due by him for such board and lodging, or board and the costs of the prosecution, the case may be discontinued, in the discretion of the Magistrate issuing the warrant.

Crim. Code, '12 § 301; Crim. Code, '02, § 221; 1898, XXII, 792.

(109) § 82. Unlawful to Allow Domestic Animals to Run at Large.—It shall be be unlawful for the owner or manager of any mule, horse, ass, jennet, swine, sheep, goats or neat cattle, of any description, to wilfully or negligently permit the said animals or any of them, or any other domestic animal, to run at large beyond the limits of his own land, or the lands leased, occupied or controlled by him. Any owner, manager or person violating the provisions of this Section shall be subject to a fine for each offense of not more than twenty-five ($25.00) dollars, or be imprisoned for not more than twenty-five days.

1921, XXXII, 200.

(110) § 83. Removing, Destroying or Leaving Down Fences—Punishment.—Any person, other than the owner, who shall remove or destroy, or leave down, any portion of any fence in this State intended to enclose animals of any kind, or crops or uncultivated lands, or who shall leave open any gate, or leave down any bars or other structure intended for a like purpose, shall be deemed guilty of a misdemeanor; and shall be punished by a fine of not less than five nor more than thirty dollars, or be imprisoned in the county jail not less than five and not more than thirty days.

Crim. Code, '12 § 229; Crim. Code, '02, § 176; G. S. 1190; R. S. 171; 1881, XVII, 593; 1903, XXIV, 111; 1921, XXXII, 200.

(111) § 84. Rescuing Trespassing Stock a Misdemeanor.—Whenever any animal shall be taken up under the provisions of Chapter XXXIV, Civil Code, it shall be unlawful for any person to rescue the same or deliver it from the custody of the person impounding it; and whoever shall violate this provision shall be deemed guilty of a misdemeanor, and be punished as provided in Section (110).

Crim. Code, '12, § 230; Crim. Code, '02, § 177; G. S. 1191; R. S. 172; 1881, XVII, 593.

(112) § 85. Traveling Outside of Road a Misdemeanor—Proviso.—It shall be a misdemeanor for any person wilfully to walk, drive, ride, or to allow his team to travel outside of the road on the cultivated lands of an-

other, punishable as in the next preceding Section: *Provided,* That in case any person charged with this misdemeanor be brought before, or reported to, a Magistrate, he may discharge himself from any further proceedings therein by paying such fine within the above limits as the Magistrate may impose.

Crim. Code, '12, § 232; Crim. Code, '02, § 178; G. S. 1192, R. S. 173; 1881, XVII, 593.

(113) § 86. In Criminal Prosecutions Defendant May Plead Satisfaction.—In all criminal prosecutions for violation of the provisions of Sections (110), (111) and (112), the defendant may plead, as a matter of defense, the full satisfaction of all reasonable demands of the party or parties aggrieved by such violation; and upon said plea being legally established, and upon payment of all costs accrued up to the time of such plea he shall be discharged from further penalty.

Crim. Code, '12, § 233; Crim. Code, '02, § 179; G. S. 1193; R. S. 173; 1881, XVII, 594.

(114) § 87. Wilful Injury to Property of Corporation a Misdemeanor.—Any officer, agent or member of any corporation created under Sections (4344) to (4353), of the Civil Code, who shall knowingly or wilfully injure or damage any property belonging to the corporation, in violation of the charter or by-laws of said corporation, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one hundred dollars or imprisoned not exceeding thirty days.

Crim. Code, '12, § 258; Crim. Code, '02, § 198; 1900, XXIII, 390.

(115) § 88. Embezzlement of Funds, a Misdemeanor.—Any commissioned officer or enlisted man of the South Carolina Reserve Militia who shall misapply, embezzle, or convert to his own use without authority, any moneys received by or entrusted to him for disbursement, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be sentenced as for like offenses under the criminal laws of this State.

1918, XXX, 874.

(116) § 89. Purchase, Etc., of Military Stores, Etc., a Misdemeanor —Penalty.—Any person knowingly and wilfully purchasing, or receiving in pawn or pledges, any arm, accoutrement, equipment, article of military clothing, tent, or fly; or any quartermaster, medical, engineer, or signal property; or ordnance or ordnance stores, the property of the State of South Carolina, or of the United States in use by the State, shall be deemed guilty of a misdemeanor, and, upon conviction in any Court of criminal jurisdiction, shall be sentenced to an imprisonment of not exceeding one year and a fine of not exceeding three hundred dollars.

1918, XXX, 874.

(117) § 90. Injury to Drainage Works.—It shall be unlawful for any person to injure or damage or obstruct or build any bridge, fence, or floodgate in such a way as to injure or damage any levee, ditch, drain, or water-course constructed or improved under the provisions of Article I, Chapter XXXIII, Civil Code, and any person causing such injury shall be

guilty of a misdemeanor, and, upon conviction thereof, may be fined in any sum not exceeding twice the damage or injury done or caused.

Civ. '12, § 2224; 1911, XXXII, 92.

(118) § 91. Obstruction of or Injury to Drainage Works a Misdemeanor—Penalty.—Whoever shall wilfully obstruct any canal, drain, ditch, or watercourse, or shall damage or destroy any drainage works constructed under the provisions of Article IV, Chapter XXXIII, Civil Code, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars, or be confined in the county jail for a period not exceeding six months, and in addition thereto shall be liable to the district or the person or persons injured for double the cost of removing such obstructions or repairing such damage, and for the full amount of injury occasioned to any lands or crops or other property by reason of such misconduct.

1920, XXXI, 663.

(119) § 92. Procedure and Penalty in Case of Fire Due to Criminal Carelessness.—If the officer shall consider that the fire be due to criminal carelessness, the person responsible for the same shall be indicted before a Magistrate for a misdemeanor, and, upon conviction of the same, may be fined in a sum not exceeding fifty ($50.00) dollars, or imprisonment for not more than ten days.

1917, XXX, 361. (See also Vol. III.)

(120) § 93. Penalty on Takers of Estrays for Not Obeying the Law.—Each and every person who shall take into his or her possession any estray, and neglect to pursue the directions of Chapter LVII, Civil Code, or shall convert to his or her use any such estray, shall be liable to a fine of twenty dollars, to be recovered upon information, in any Court of record having jurisdiction of the same in this State, to be given to the informer; and shall also be liable to an action by the owner of any such estray for damages.

Civ. '12 § 3396; Civ. '02, § 2285; G. S. 1620; R. S. 1812; 1803, V, 466.

(121) § 94. Penalty for Suppressing Will.—Any executor, devisee, legatee, guardian, attorney or other person who shall fail to deliver any last will and testament, including any codicil or codicils thereto, as required in Section 28, of Chapter LXX, Civil Code, upon conviction thereof, shall be punished as for a misdemeanor.

1912, XXVII, 765.

(122) § 95. Further Penalty For Suppressing Will.—Any person who shall intentionally or fraudulently destroy, suppress, conceal or fail to file with the Judge of the Probate Court having jurisdiction to admit it to probate any last will and testament, including any codicil or codicils thereto, for the purpose and with the intent to prevent the institution of proceedings for its probate, shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars, or by imprisonment not more than one year, or both, in the discretion of the Court.

1912, XXVII, 765.

CHAPTER III.

Offenses Against Public Policy and Violations of Regulations for Trade and Business.

(123) § 1. Penalty for Setting up Lotteries.—Whoever shall publicly or privately erect, set up or expose to be played, drawn at, or shall cause or procure to be erected, set up, exposed to be played, drawn or thrown at, any lottery, under the denomination of sales of houses, lands, plate, jewels, goods, wares, merchandise, or other things whatsoever, or for money, or by any undertaking whatsoever, in the nature of a lottery, by way of chances, either by dies, lots, cards, balls, numbers, figures, or tickets, or who shall make, write, print or publish, or cause to be made, written, or published, any scheme or proposal for any of the purposes aforesaid, and shall be convicted of any of the offenses aforesaid, on any indictment for the same, at the Court of General Sessions, shall forfeit the sum of one thousand dollars, one-third thereof to and for the use of this State, one-third part thereof to the informer, and the other third part thereof to the county where the offense shall be committed; and shall, also, for every such offense, be committed by the said Court to the common jail for the space of twelve months.

Crim. Code, '12, § 259; Crim. Code, '02, § 199; G. S. 2596; R. S. 185; 1762, IV, 180.

Raffling not a lottery. State *v.* Pinchback, 2 Mill 128. Cited Rountree *v.* Ingle, 94, S. C. 231; 77 S. E. 931.

(124) § 2. Penalty for Adventuring in Lotteries.—Whoever shall be adventurer in, or shall pay any moneys or other consideration, or shall in any way contribute unto or upon account of, any sales or lotteries, shall forfeit, for every such offense, the sum of one hundred dollars to be recovered, with costs of suit, by action or indictment in any Court of competent jurisdiction in this State, one moiety thereof to and for the use of the State, and the other moiety thereof to the person or persons who shall inform and sue for the same.

Crim. Code, '12, § 260; Crim. Code, '02; § 200; G. S. 2597; R. S. 186; 1762, IV, 180.

Cited Rountree *v.* Ingle. *Supra.*

(125) § 3. Penalty for Selling Lottery Tickets.—It shall be unlawful to offer for sale any lottery tickets, or to open or keep any office for the sale of lottery tickets; and if any person shall offend against any of the provisions of this Section, he shall, on conviction thereof, forfeit and pay to the State a sum not exceeding ten thousand dollars; and it shall be the duty of the County Treasurer of the county to prosecute the offender.

Crim. Code, '12, § 261; Crim. Code, '02, § 201; G. S. 2598; R. S. 187; 1846, XI, 368.

See State *v.* Allen, 2 McC. 55—prior to amendment of 1846.

(126) § 4. Unlawful to Maintain an Office to Deal in Futures.—It shall be unlawful for any person, association of persons, or corporation, either as principal or agent, to establish, maintain or operate an office or other place of business in this State for the purpose of carrying on or engaging in the business, forbidden by Sections (127) and (128), commonly called dealing in futures or margins, and any person violating the provisions of this Section shall be guilty of a misdemeanor.

Crim. Code, '12, § 262; 1907, XXV, 614.

(127) § 5. Contracts for Futures Void.—Every contract or agreement, whether or not in writing, whereby any person or corporation shall agree to buy or sell and deliver, or sell with an agreement to deliver, any wheat, cotton, corn, or other commodity, stock, bond, or other security to any other person or corporation, when in fact it is not in good faith intended by the parties that an actual delivery of the articles or things shall be made, it is hereby declared to be unlawful, whether made or to be performed wholly within this State, or partly within and partly without this State; it being the intent of Sections (126) and (129) to prohibit any and all contracts or agreements for the purchase on sale and delivery of any commodity or other thing of value on margin, commonly called dealing in futures, when the intention or understanding of the parties is to receive or pay the difference between the agreed price and the market price at the time of settlement: *Provided,* That nothing herein contained shall be construed to apply to transactions by mail or wire between persons in this State and persons outside of this State, where the person outside this State is not represented in this State by any broker, agent or attorney in said transaction.

Crim. Code, '12, § 263; 1907, XXV, 614.

As to sales of goods for future delivery, see Gist *v.* Western Union Tel. Co., 45 S. C. 344, 23 S. E. 143; Riodan *v.* Doty, 50 S. C. 537, 27 S. E. 947; Harvey *v.* Doty, 54 S. C. 382, 32 S. E. 501; 50 S. C. 548, 27 S. E. 943; Barr *v.* Satcher, 72 S. C. 35, 51 S. E. 530; Randolph *v.* Walker, 78 S. C. 161, 59 S. E. 856; Knight *v.* Etna Cotton Mills, 80 S. C. 213, 61 S. E. 396; Cousar *v.* Heath, etc., Co., 80 S. C. 466, 61 S. E. 793; Sampson *v.* Camperdown Mills, 82 Fed. 833; Parker *v.* Moore, 111 Fed. 470; reversed in 115 Fed. 799; retried on Circuit and reported in 125 Fed. 807; Springs & Co. *v.* Carpenter, 154 Fed. 487, 83 C. C. A. 327; Richmond Guano Co. *v.* Farmers, etc., Ginnery Co., 126 Fed. 712, 61 C. C. A. 630; Sprunt *v.* Hurst-Streator Co., 180 Fed. 782.

(128) § 6. Misdemeanor to Make Contracts for Futures.—Every person who shall become a party to any such contract or agreement as is by Sections (126) and (127) made unlawful, and every person who shall as agent, directly or indirectly, participate in making or furthering or effectuating the same, and every agent or officer of any corporation who shall in any way knowingly aid in making or furthering any such contract or agreement, shall be deemed guilty of a misdemeanor.

Crim. Code, '12, § 264; 1907, XXV, 614.

(129) § 7. Penalty for Violating Provisions of Sections (126) to (129) Relating to Futures.—Any person or persons guilty of the violation of any of the provisions of Sections (126) to (129), inclusive, shall, upon conviction, be fined not less than one hundred ($100) dollars nor more than five hundred ($500) dollars, and be imprisoned in the discretion of the Court.

Crim. Code, '12, § 270; 1907, XXV, 614.

(130) § 8. Unlawful for Certain Officers to Accept Passes.—It shall be unlawful for any person, while a member of the Senate, or of the House of Representatives, State or National, or any State or County official, or any Judge of a Court of record in this State, to use any free pass, express or telegraph frank, or complimentary ticket, or to ride without paying the usual fare on any railroad in this State. Any person, upon conviction of a violation of the provision of this Section, shall be deemed guilty of a misdemeanor, and shall be liable to a fine not to exceed five hundred dol-

lars, or imprisonment not to exceed six months: *Provided,* That nothing herein contained shall apply to the Commissioner of Agriculture, Commerce and Immigration.

Crim. Code, '12, § 273; Crim. Code, '02, § 204; R. S. 190; 1891, XX, 1047; 1905, XXIV, 900.

(131) § 9. Unlawful to Offer Passes.—It shall be unlawful for any transportation or transmitting company, or any person representing same, to issue, or offer to issue a free pass or any special or reduced rates not common to the public, to any member of the Legislature of the State, or member of Congress from this State, or any State or County official, or any Judge of a Court of record in this State: *Provided,* That nothing herein contained shall apply to the Commissioner of Agriculture, Commerce and Immigration.

Crim. Code, '12, § 274; Crim. Code, '02, § 205; R. S. 191; 1891, XX, 1047; 1905, XXIV, 900.

(132) § 10. Giving or Taking Bribes, Etc., to or by Certain Agents, Servants or Employees.—Whoever corruptly gives, offers or promises to an agent, employee or servant, any gift or gratuity whatever, with intent to influence his action in relation to his principal's, employer's or master's business; or an agent, employee or servant who corruptly requests or accepts a gift or gratuity or a promise to make a gift, or to do an act beneficial to himself under an agreement or with an understanding that he shall act in any particular manner in relation to his principal's, employer's or master's business; or an agent, employee or servant who, being authorized to procure materials, supplies or other articles, either by purchase or contract for his principal, employer or master, receives directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employee or servant such commission, discount or bonus, shall be punished by a fine of not more than five hundred dollars, or by such fine and by imprisonment for not more than one year.

Crim. Code, '12, § 277; 1905, XXIV, 942.

(133) § 11. No Gift or Premium to Be Offered to the Purchaser—Penalty for Violation.—No person shall sell, exchange or dispose of any article of food, or attempt to do so, upon any representation, advertisement, notice or indictment that anything other than what is specially stated to be the subject of the sale or exchange is or is to be delivered or received, or in any way connected with or a part of the transaction as a gift, prize, premium, or reward to the purchaser. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days.

Crim. Code, '12, § 278; Crim. Code, 1902, § 206; R. S. 192; 1887, XIX, 812.

(134) § 12. Fraud by Officer or Stockholder a Misdemeanor.—Any officer or stockholder of any corporation who shall knowingly and wilfully make, or cause to be made, any fraudulent misrepresentation as to either capital, property or resources of the corporation, shall be held guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than two thousand dollars, or by imprisonment for not longer than two years, or both, at the discretion of the Court.

Crim. Code, '12, § 281; Crim. Code, 1902, § 209; R. S. 195; 1898, XIX, 546; 1896, XXII, 101.

(135) § 13. Penalty for Discounting, Etc., Pension Claims.—Any person who shall discount, shave, or in any manner speculate in, the claim or application of any soldier, sailor, or widow, made under the pension laws of this State, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding one thousand dollars, or imprisonment not exceeding thirty days, or both, at the discretion of the Court.

Crim. Code, '12, § 282; Crim. Code, '02, § 210; R. S. 196; 1897, XIX, 828.

(136) § 14. Penalty for Making Fraudulent Pensions Claims.—Any person who shall fraudulently personate any soldier, sailor, or widow, for the purpose of obtaining the benefit of the pension laws of this State, or who shall knowingly make or cause to be made any false application or statement, or by any false or fraudulent statement procure such statement to be made, approved or paid, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by fine not exceeding two hundred dollars, or imprisonment not exceeding six months, or both, at the discretion of the Court.

Crim. Code, '12, § 283; Crim. Code, '02, § 211; R. S. 197; 1897, XIX, 828.

(137) § 15. Unlawful to Wear or Sell Confederate Crosses of Honor Except as Prescribed—Punishment.—It shall be unlawful for any person to wear as a badge, or expose upon their person, or to sell, or offer for sale, or otherwise dispose of, or use, or to manufacture, any badge or insignia known as the Confederate Cross of Honor, or any counterfeit or likeness of such badge, unless such badge has been conferred or bestowed, or authorized to be bestowed, by the United Daughters of the Confederacy, upon such wearer, or in any other way than that prescribed by the rules and regulations made and adopted by the United Daughters of the Confederacy. Any violation of the provision of this Section shall be punished by a fine of not less than one hundred ($100) dollars nor more than five hundred ($500) dollars, or be imprisoned for not less than twelve (12) months nor more than five (5) years.

Crim. Code, '12, § 284; '02, XXIII, 1097; 1905; XXIV, 954.
97 S. C. 7; 81 S. E. 959.

(138) § 16. Unlawful for Non-Members to Wear Emblem of American Legion.—It shall be unlawful for any person than a member of the American Legion in good standing wilfully to wear the button, which is the official insignia or emblem of the said organization. Any wilful violation of the provisions of this Section, shall subject the offender to

a fine of not exceeding one hundred ($100.00) dollars or imprisonment not exceeding thirty (30) days.

1921, XXXII, 212.

(139) § 17. Imitation of Names, Emblems, Etc., of Certain Organizations Prohibited.—1. No person, society, or organization shall assume, use, or adopt, or become incorporated under, or continue to use the name and style or emblems of any benevolent, fraternal, social, humane or charitable organization previously existing in this State, and which has been incorporated under the laws of this or any other State, or of the United States, or a name and style or emblems, so nearly resembling the name and style of such incorporated organization as to be colorable imitation thereof. In all cases where two or more of such societies, associations or corporations claim the right to the same name, or to name substantially similar as above provided, the organization which was first organized and used the name, and first became incorporated under the laws of the United States or of any State of the Union, whether incorporated in this State or not, shall be entitled in this State to the prior and exclusive use of such name, and the rights of such societies, associations or corporations and of their individual members shall be fixed and determined accordingly.

2. Injunctions May Be Issued to Restrain Improper Use Thereof.—Whenever there shall be an actual or threatened violation of the provisions of this Section, the organization entitled to the exclusive use of the name in question, under the terms of said Section, shall have the right to apply to the proper Courts for an injunction to restrain the infringement of its name and the use of its emblems, and if it shall be made to appear to the Court that the defendants are in fact infringing or about to infringe the name and style of a previously existing benevolent, fraternal, social, humane, or charitable organization in the manner prohibited in said Subdivision 1 of this Section, or that the defendant or defendants are wearing and using the badge, insignia or emblems of said organization, without the authority thereof in violation of said Subdivision 1, an injunction may be issued by the Court under the principles of equity, without requiring proof that any person has been in fact misled or deceived by the infringement of such name, or the use of such emblem.

3. Misdemeanor.—Any person who shall wear a badge, button, or other emblem, or shall use the name, or claim to be a member of any benevolent, fraternal, social, humane, or charitable organization which is entitled to the exclusive use of such name and emblems under Subdivision 1 of this Section, either in the identical form or in such near resemblance thereto as to be a colorable imitation of such emblems and name, unless entitled so to do under the laws, rules and regulations of such organization, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars, or imprisonment in the State Penitentiary for not less than thirty days or more than one year.

Crim. Code, '12, § 285; 1910, XXVI, 723; 1910, XXVI, 779; 1906, XXV, 118.

The punishment in this Section codified from Act approved February 24, 1910, XXVI, 723, differs from that prescribed in Act approved February 23, 1910, XXVI, 779, and the Act of 1906, XXV, 118.

(140) § 18. Unlawful to Imitate or Counterfeit Labels, Etc., of Union of Workmen—Penalty.—Whenever any person, or any association or union of workingmen, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade mark, term, design, device or form of advertisement for the purpose of designation, making known, or distinguishing any goods, wares, merchandise, or other product of labor as having been made, manufactured, produced, prepared, packed, or put on sale by such person, or association or union of working men, or by a member, or members, of such association or union, it shall be unlawful to counterfeit or imitate such label, trademark, term, design, device, or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trademark, term, design, device, or form of advertisement. Whoever knowingly counterfeits or imitates any such label, trademark, term, design, device or form of advertisement which has been filed and recorded in the office of Secretary of State, as hereinafter provided; or knowingly sells, offers for sale, or in any way utters or circulates any counterfeit or imitation of any such label, trademark, term, design, device, or form of advertisement; or knowingly keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise, or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped, or impressed; or knowingly sells or disposes of any goods, wares, merchandise, or other product of labor contained in any box, case, can, or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or knowingly keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise, or other product of labor in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, or impressed, shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than three months.

Crim. Code, '12, § 286; 1910, XXVI, 781.

(141) § 19. Labels, Etc., to Be Recorded With Secretary of State.—Every such person, association, or union, that has heretofore adopted or used, or shall hereafter adopt or use, a label, trademark, term, design, device, or form of advertisement, as provided in Section (140) shall file the same for record in the office of the Secretary of State by leaving two copies, counterparts or *fac similes* thereof with said Secretary, and by filing therewith a sworn application specifying the name or names of the person, association, or union on whose behalf such label, trademark, term, design, device, or form of advertisement shall be filed, the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating the parties so filing, or on whose behalf such label, trademark, term, design, device, or form of advertisement shall be filed, has the right to the use of the same; that no other person, firm, association, union, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the *fac similes* or counterparts filed therewith are true

and correct, before there shall be any liability to any suit or proceeding for any violation of Section (140) to (144), inclusive. There shall be paid for such filing and recording a fee of one dollar. Said Secretary of State shall cause a description of such label, trademark, term, design, device, or form of advertisements to be published once a week for three successive weeks, at the expense of the applicant, in some newspaper published in the City of Columbia. After such publication said Secretary shall deliver to such person, association, or union, so filing or causing to be filed, any such label, trademark, term, design, device, or form of advertisement, so many duly attested certificates of the recording of the same as such person, association, or union may apply for, for each of which certificates said Secretary shall receive a fee of one dollar. Any such certificate of record shall in all suits and prosecutions under this Section be sufficient proof of the adoption of such label, trademark, term, design, device, or form of advertisement. Said Secretary of State shall not record for any person, union, or association any label, trademark, term, design, device, or form of advertisement that would probably be mistaken for any label, trademark, term, design, device, or form of advertisement therefore filed by or on behalf of any other person, union, or association.

Crim. Code, '12, § 287; 1910, XXVI, 781.

(142) § 20. Penalty for Fraudulent Registration of Labels, Etc.,— Any person who shall, for himself or on behalf of any other person, association or union, procure the filing of any label, trademark, term, design, device, or form of advertisement in the office of the said Secretary of State, under the provisions of Section (141), by making any false or fraudulent representations, or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any Court having jurisdiction, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months. In any suit or prosecution under the provisions of Sections (139) to (144), inclusive, the defendant may show that he or it was the owner of such label, trademark, term, design, device, or form of advertisement prior to its being filed under the provisions of Section (141) and that it has been filed wrongly or without right by some other person, association, or union.

Crim. Code, '12, § 288; 1910, XXVI, 781.

(143) § 21. Unlawful Use May Be Enjoined.—Every such person, association, or union, adopting or using a label, trademark, term, design, device, or form of advertisement as aforesaid, may proceed by suit to enjoin the manufacture, use, display, or sale of any counterfeit or imitations thereof, and all Courts of competent jurisdiction may grant injunctions to restrain such manufacture, use, display, or sale, and may award the complainant in any such suit damages resulting from such manufacture, use, sale, or display, as may be by said Court deemed just and reasonable, and may require the defendants to pay to such persons, association, or union, all profits derived from such wrongful manufacture, use, display or sale;

and such may also order that all such counterfeits or imitations in the possession or under the control of any defendants in such case to be delivered to an officer of the Court, or to the complainant, to be destroyed. In all cases where such association or union is not incorporated, suits under Section (140) to (144), inclusive, may be commenced and prosecuted by an officer or member of such association or union, on behalf of and for the use of such association or union.

Crim. Code, '12, § 289; 1910, XXVI, 781.

(144) § 22. Unlawful to Use Seal—Trade-Marks.—Any person or persons who shall in any way use the name or seal of any such person, association, or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized to use same, shall be guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months, or by a fine of not more than one hundred dollars. The provisions of Sections (140) and (144), inclusive, shall not abridge any rights to any trademarks existing at the time of the passage of this Statute, whether the same shall be recorded or not, nor any remedies or rights of action otherwise or theretofore existing in favor of owners of trademarks. The Judicial Courts of the several Judicial Districts shall have jurisdiction of all complaints for violations of Sections (139) to (144), inclusive.

Crim. Code, '12, § 290; 1910, XXVI, 781.

(145) § 23. Misdemeanor to Remove Any State Line Marks.—Any person who shall deface, disturb or remove any granite post or marking, whether wood, stone, or metal, duly placed by competent authority on the State line of this State, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than one hundred dollars, or imprisoned not less than six months.

Crim. Code, '12, § 291; 1906, XXV, 63.

(146) § 24. Importation of Stock Infected with Glanders Forbidden —Penalty.—It shall be unlawful for any person or persons to transport within the borders of this State any horse, mule, or ass infected with glanders. Any person or persons violating the provisions of this Section, unless he can produce a clean bill of health from some veterinary surgeon that the said stock was not infected with said disease when transported within the borders of this State, shall be liable for all damages attending the introduction of said disease, to be recovered by any person so damaged, and shall also be deemed guilty of a misdemeanor, and, on conviction, shall be fined in a sum not exceeding five hundred dollars, or be imprisoned not exceeding twelve months.

Crim. Code, '12, § 294; Crim. Code, '02, § 370; R. S. 516; 1890, XX, 709.

(147) § 25. Misdemeanor for Bank Officials to Furnish False Certificate to Comptroller-General.—Whenever an officer of any bank engaged in business in this State shall be called upon by the Comptroller General, or any of his clerks or agents, for a certificate of the amount of cash on deposit to the credit of any public officer for use in settlements with such public officer, and shall wilfully and knowingly give a false certificate or statement, the officer or person signing such false certificate

or statement shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment not more than six months nor less than three months, in the discretion of the Court.

Crim. Code, '12, § 297; 1910, XXVI, 566.

(148) § 26. Digging or Pulling up Ginseng a Misdemeanor—When.—If any person shall dig in this State any ginseng, pull up the roots or in any manner injure them, from the 15th day of March till the 15th day of September in any year, such person shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than one hundred dollars, or imprisonment for not more than thirty days.

Crim. Code, '12, § 299; Crim. Code, '02, § 231; 1899, XXIII, 92.

(149) § 27. Rebates Collected and Retained by Public Officers Misdemeanor.—Any State or County officer in this State who shall receive or collect any rebate, commission or discount from any person, persons or corporations upon the purchase of any books, or any other property, or supplies, or from printing or advertising, whether for use of State or county, and shall fail or refuse to pay the same to the proper State or county authorities at the time of receiving the same, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine or imprisonment, in the discretion of the Court, and shall also forfeit his said office.

Crim. Code, '12, § 303; Crim. Code, '02, § 223; 1897, XXII, 519.

(150) § 28. Carrying, Sale, Etc., of Pistols Regulated—Penalty—Exceptions.—It shall be unlawful for any one to carry about the person, whether concealed or not, any pistol less than twenty inches long and three pounds in weight, and it shall be unlawful for any person, firm or corporation to manufacture, sell or offer for sale, lease, rent, barter, exchange or transport for sale or into this State, any pistol of less length and weight. Any violation of this Section shall be punished by a fine of not more than one hundred ($100) dollars or imprisonment for not more than thirty (30) days; and in case of a sale by a person, firm or corporation, the sum of one hundred ($100) dollars shall be forfeited to and for the use of the school fund of the county wherein the violation takes place, to be recovered as other fines and forfeitures: *Provided,* This Section shall not apply to peace officers in the actual discharge of their duties, or to carrying or keeping of pistols by persons while on their own premises. In case it shall appear to the satisfaction of the presiding Judge or Magistrate before whom such offense is tried that the defendant had good reasons to fear injury to his person or property, and carried said weapon to protect himself or property, he may, in his discretion, suspend sentence: *Provided,* Nothing herein contained shall abridge the right of self-defense.

Crim. Code, '12, § 157; Crim. Code, '02, § 129; 1901, XXIII, 748; 1910, XXVI, 718; 1903, XXIV, 127; 1902, XXIII, 1093; 1901, XXIII, 748.

This Section distinguished from § 151, in State *v.* Johnson, 70 S. C. 386, 50 S. C. 8. Does not prohibit carrying weapons in a satchel. State *v.* Weston, 108 S. C. 383; 94 S. E. 871.

(151) § 29. Carrying Concealed Weapons a Misdemeanor.—Any person carrying a pistol, dirk, slingshot, metal knuckles, razor, or other deadly

weapon usually used for the infliction of personal injury, concealed about his person, shall be guilty of a misdemeanor, and, upon conviction thereof before a Court of competent jurisdiction, shall forfeit to the county the weapon so carried concealed, and be fined in the sum of not more than one hundred dollars and not less than twenty dollars, or imprisoned not more than thirty nor less than ten days, in the discretion of the Court. Nothing herein contained shall be construed to apply to persons carrying concealed weapons upon their own premises, or peace officers in the actual discharge of their duties as peace officers.

Crim. Code, '12, § 158; Crim. Code, '02, § 130; G. S. 2472; R. S. 129; 1880, XVII, 448; 1894, XXI, 824; 1897, XXII, 423; 1900, XXIII, 446.

It is necessary to conviction under this Section for carrying a concealed weapon for the State to prove that it was concealed about the person. State *v.* Johnson, 16 S. C. 187.
Cited in State *v.* Johnson, 70 S. C. 384, 50 S. E. 8; State *v.* Norton, 69 S. C. 458, 48 S. E. 464; State *v.* Hasty, 76 S. C. 113, 56 S. E. 669.

(152) § 30. Clerks of Courts and Mayors Authorized to sell Forfeited Weapons.—It shall be the duty of Clerks of Courts in each county of this State to keep in a suitable book the make, brand, calibre, number and other descriptions that will identify any forfeited weapon. And the said Clerks of Court are hereby authorized to sell any forfeited weapon to any one who, under the law, may carry such weapons, to licensed dealers in this State, or to persons or dealers out of the State. The said Clerks of Court shall receive 10 per cent. of the amount of sale as his fee: *Provided*, In no event shall the fee exceed one dollar; the balance to go into the school fund of the county, and all Mayors of towns and cities in which weapons are forfeited shall have the same duties and powers as the Clerk of Court, and the funds obtained from such sale shall go into the town or city treasury.

1913, XXVIII, 198.

(153) § 31. Assault, Etc., with Concealed Weapon.—If any person be convicted of assault, assault and battery, assault or assault and battery with intent to kill, or of manslaughter, and it shall appear upon the trial that the assault, assault and battery, assault or assault and battery with intent to kill, or manslaughter, shall have been committed with a deadly weapon of the character specified in Section (151) carried concealed upon the person of the defendant so convicted, the presiding Judge shall, in addition to the punishment provided by law for such assault, assault and battery, assault or assault and battery with intent to kill, or manslaughter, inflict further punishment upon the person so convicted, by confinement in the Penitentiary for not less than three months, nor more than twelve months, with or without hard labor, or a fine of not less than two hundred dollars, or both fine and imprisonment, at the discretion of the said Judge.

Crim. Code, '12, § 160; Crim. Code, '02, § 132; 1897, XXII, 427.

Under indictment for assault with pistol with intent to kill, where jury find a verdict of "guilty of an aggravated assault and battery," the words "and battery" were stricken out as surplusage and the verdict was held good. State *v.* Robinson, 31 S. C. 453, 10 S. E. 101.
This Section must be construed with § 150, and the bill of indictment must include count for carrying concealed weapons, and there must be a finding of guilty thereon before any punishment therefor can be imposed. State *v.* Johnson, 70 S. C. 384; 50 S. E. 8.

(154) § 32. Penalty for Interfering with Phosphate Commissioners or Mining Without License.—Any person or persons wilfully interfering with, molesting, or obstructing, or attempting to interfere with, molest, or

obstruct the State or the said Board of Phosphate Commissioners, or any one of them authorized or licensed, in the peaceable possession and occupation of any of the marshes and navigable streams and waters of the State, including the Coosaw River phosphate territory, or who shall dig or mine, or attempt to dig or mine, any of the phosphate rock or phosphate deposits of this State, without a license so to do by the Board of Phosphate Commissioners, shall be punished for each offense by a fine of not less than one hundred dollars or more than five hundred dollars or imprisonment for not less than one or more than twelve months, or both, at the discretion of the Court.

Crim. Code, '12, § 305; Crim. Code, '02, § 225; R. S. 515; 1900, XX, 694.

(155) § 33. Obstruction of State Bank Examiner Misdemeanor.—Any person who obstructs or interferes with the State Bank Examiner in any way in the performance of his duties, shall, upon conviction, be deemed guilty of a misdemeanor, and shall be subject to imprisonment for not more than one year, or a fine of not more than one thousand dollars, or both, in the discretion of the Court.

Crim. Code, '12, § 306; Crim. Code, '02, § 226, 1896, XXII, 113; 1906, XXV, 106; 1911, XXVII, 8.

(156) § 34. Misdemeanor to Interfere with Aids to Navigation.—Any person who shall moor any vessel of any kind or name whatsoever, or any raft or any part of a raft, to any buoy, beacon or day-mark placed in the waters of South Carolina by the authority of the United States Light House Board, or shall in any manner hang on with any vessel or raft or a part of a raft to any such buoy, beacon or day-mark, or shall wilfully remove, damage or destroy any such buoy, beacon or day-mark, or shall cut down, remove, damage, or destroy any beacon erected on land in this State by the authority of the United States Light House Board, or through unavoidable accident run down, drag from its position, or in any way injure any buoy, beacon or day-mark, as aforesaid, and shall fail to give notice as soon as practicable of having done so, to the Light House Inspector or Light House Engineer of the District in which said buoy, beacon or day-mark may be located, shall, for every such offense, be guilty of a misdemeanor, and shall be punished by a fine not to exceed two hundred dollars, or imprisonment not to exceed three months, or both, at the discretion of the Court.

Crim. Code, '12, § 307; 1905, XXIV, 914.

(157) § 35. Unlawful to Anchor to Range Lights.—It shall be unlawful for any vessel to anchor on the range-line of any range of lights established by the United States Light House Board, unless such anchorage is unavoidable, and the master of any vessel so anchoring shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not to exceed fifty dollars.

Crim. Code, '12, § 308; 1905, XXIV, 914.

(158) § 36. Changing Position of Buoys, Etc.—Any person having charge of any raft passing any buoy, beacon or day-mark, who shall not exercise due diligence in keeping clear of it, or, if unavoidably fouling it,

shall not exercise due diligence in clearing such raft without dragging from its position such buoy, beacon, or day-mark, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not to exceed fifty dollars.

Crim. Code, '12, § 309; 1905, XXIV, 914.

(159) § 37. Cost of Repairs to Be a Lien.—The cost of repairing or replacing any such buoy, beacon or day-mark which may have been misplaced, damaged, or destroyed by any vessel or raft whatsoever having been made fast to any such buoy, beacon, or day-mark, shall, when the same shall be legally ascertained, be a lien upon such vessel or raft, and may be recovered against said vessel or raft and the owner or owners thereof in an action of debt in any Court of competent jurisdiction in this State.

Crim. Code, '12, § 310; Crim. Code, '02, § 229; R. S. 520; 1893, XXI, 396.

(160) § 38. Mutilation of Any Monument a Misdemeanor.—Whoever shall unlawfully or wilfully cut, mutilate, deface, or otherwise injure any public, or private monument or tombstone, whether within or without any recognized cemetery, or on any battlefield, or who shall cut, injure or deface or mutilate any fence or enclosure erected around said such monument, or commit any other wilful trespass upon the grounds around said monument or tombstone, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars or more than one hundred dollars, or imprisoned for a period of not less than twenty days or more than thirty days.

Crim. Code, '12, § 245; 1910, XXVI, 748.

(161) § 39. Destruction of Graves and Graveyards a Misdemeanor.—Any person or persons who shall wilfully obliterate or desecrate any grave, or shall wilfully destroy any plants, trees, decorations, shrubbery, or deface or remove any grave-stone, or shall wilfully destroy, tear down or injure any fence or other enclosure of any graveyard, shall be guilty of a misdemeanor, and, upon conviction, shall pay a fine of not more than one hundred nor less than twenty-five dollars, or be confined on the county chaingang not more than thirty days nor less than ten days.

Crim. Code, '12, § 246; Crim. Code, '02, § 230; 1899, XXIII, 98.

(162) § 40. Destroying, Defacing, Etc., Monuments of United States Coast Surveys.—If any person shall wilfully and maliciously destroy, or in any manner hurt, damage, or obstruct, or shall wilfully and maliciously cause, or aid, or assist, or counsel, or advise, any other person or persons to destroy, or in any manner to hurt, damage, injure, or obstruct, any signal, monument, building, or any appendage thereto, used or constructed under and by virtue of the Act of Congress of the United States, passed the tenth day of February, 1807, entitled "An Act to provide for surveying the coast of the United States," and the supplements thereto, he shall be liable to be indicted therefor, and, on conviction, shall be imprisoned not less than one month, or pay a fine not exceeding fifty dollars, or both, at the discretion of the Court before which such conviction shall take place, and shall be further liable to pay all expenses of repairing the same;

and it shall not be competent for any person so offending to defend himself by pleading, or giving in evidence, that he was the owner, or agent, or servant of the owner, of the land where such damage was done, or caused, at the time the same was caused or done.

Crim. Code, '12, § 311; Crim Code. '02, § 471; G. S. 2513; R. S. 368; 1847, XI, 444; St. at Large, U. S., Vol. II, 413.

(163) § 41. Furnishing White and Colored Passengers Meals in Same Room at Station Eating Houses.—No persons, firms, or corporations, who, or which furnish meals to passengers at station restaurants or station eating houses, in times limited by common carriers of said passengers, shall furnish said meals to white and colored passengers, in the same room, or at the same table, or at the same counter. Any person, firm, or corporation, violating the provisions of this Section, shall, upon conviction, be deemed guilty of a misdemeanor, and subject to a fine of not less than twenty-five dollars, nor to exceed one hundred dollars, or to imprisonment not to exceed thirty days for each offense.

Crim. Code, '12, § 314; 1906, XXV, 76.

(164) § 42. Separation of Races in Electric Cars.—Electric railways outside of the corporate limits of cities and towns shall have authority to separate the races in their cars, and the conductors in charge of said cars are hereby authorized and directed to separate the races in said cars under their charge and control. Any conductor who shall fail or refuse to separate the races as herein provided, shall, upon conviction, be fined not more than one hundred dollars, or be imprisoned for not exceeding thirty days for each offense.

Crim. Code, '12, § 315; 1905, XXIV, 954.

(165) § 43. Conductors to Have Powers of Peace Officers.—Conductors and other employees of electric railways while in charge of the cars of said railway, are hereby invested with the powers of peace officers and authorized to make arrests as in the case of conductors of steam railroads.

Crim. Code, '12, § 316; 1905, XXIV, 954.

(166) § 44. Tent Shows to Maintain Separate Entrances for Races.—Any circus or other such traveling show exhibiting under canvas or out of doors for gain shall maintain two main entrances to such exhibition, and one shall be for white people and the other entrance shall be for colored people, and such main entrances shall be plainly marked "For White People," and the other entrance shall be marked "For Colored People," and all white persons attending such show or traveling exhibition other than those connected with the said show shall pass in and out of the entrance provided for white persons, and all colored persons attending such show or traveling exhibition shall pass in and out of the entrance provided for colored persons. Any circus or other such traveling show exhibiting under canvas and failing to comply with the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not more than $500.00. The Sheriffs of the counties in which

such circus or traveling show shall exhibit shall be charged with the duty of enforcing the provisions of this Section.

1917, XXX, 48.

(167) § 45. Separation of Employees of Different Races in Cotton Textile Factories—Penalties.—That it shall be unlawful for any person, firm or corporation engaged in the business of cotton textile manufacturing in this State to allow or permit operatives, help and labor of different races to labor and work together within the same room, or to use the same doors of entrance and exit at the same time, or to use and occupy the same pay ticket windows or doors for paying off its operatives and laborers at the same time, or to use the same stairway and windows at the same time, or to use at any time the same lavatories, toilets, drinking water buckets, pails, cups, dippers or glasses: *Provided,* Equal accommodations shall be supplied and furnished to all persons employed by said person, firm or corporation engaged in the business of cotton textile manufacturing as aforesaid, without distinction to race, color or previous conditions. Any firm, person or corporation engaged in cotton textile manufacturing violating the provisions of this Section shall be liable to a penalty of not over one hundred ($100.00) dollars for each and every offense, to be recovered in suit by any citizen of the county in which the offense is committed and to be paid to the school fund of the district in which offending textile manufacturing establishment is located. Any firm, person or corporation engaged in cotton textile manufacturing violating the provisions of this Section shall be punished by a fine not to exceed one hundred dollars for each offense or imprisonment at hard labor for a period not to exceed thirty days or both at the discretion of the Judge. This Section shall not apply to employment of firemen as subordinates in boiler rooms, or to floor scrubbers and those persons employed in keeping in proper condition lavatories and toilets, and carpenters, mechanics and others engaged in the repair or erection of buildings.

1915, XXIX, 79; 1916, XXIX, 706.

(168) § 46. Misdemeanor to Mutilate Flag.—Any person who mutilates, injures or desecrates the flag of the State, wherever displayed, upon the State House, any courthouse, any building of the State University, or any State college, or upon any public school building, shall be guilty of a misdemeanor, and, upon conviction, be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

Crim. Code, '12, § 207; 1910, XXVI, 753.

(169) § 47. Desecration, Mutilation or Improper Use of U. S. Flag Prohibited—Penalty.—Any person, who in any manner, for exhibition or display, shall, after this Act takes effect, knowingly place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement, of any nature, upon any flag, standard, color or ensign of the United States, or shall knowingly expose or cause to be exposed to public view any such flag, standard, color or ensign, upon which, after this act takes effect, shall have been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed any word, figure, mark, picture,

design or drawing or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale or to give away, or for use for any purpose, any article or substance, being an article of merchandise, or a receptacle of merchandise or article or thing for camping or transporting merchandise, upon which after this act takes effect, shall have been printed, painted, attached, or otherwise placed a representation of any such flag, standard, color or ensign, to advertise, call attention to, decorate, mark, or distinguish, the article, or substance, on which placed, or who shall publicly mutilate, deface, defile or defy, trample upon, or cast contempt, either by word or act, upon any such flag, standard, color, or ensign, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days, or both, in the discretion of the Court; and shall also forfeit a penalty of fifty dollars for each such offense, to be recovered with costs in a civil action, or suit in any Court having jurisdiction, and such action or suit may be brought by and in the name of any citizen of this State, and such penalty when collected, less the reasonable cost and expense of action or suit and recovery to be certified by the Clerk of Court of the county in which the offense is committed, shall be paid into the Treasury of this State; and two or more penalties may be sued for and recovered in the same action or suit. The words, flag, standard, color, or ensign, as used in this Subdivision or Section, shall include any flag, standard, color, ensign, or any picture or representation, or either thereof, made of any substance, or represented on any substance, and of any size, evidently purporting to be, either of, said flag, standard, color or ensign, of the United States of America, or a picture or a representation, or either thereof, upon which shall be shown the colors, the stars, and the stripes, in any number or either thereof, or by which the person seeing the same, without deliberation may believe the same to represent the flag, colors, standard, or ensign, of the United States of America. The possession by any person, other than a public officer, as such, of any such flag, standard, color or ensign, on which shall be anything made unlawful at any time by this Section, or of any article or substance or thing on which shall be anything made unlawful at any time by this Section, shall be presumptive evidence that the same is in violation of this Section, and was made, done or created after this Section took effect, and that such flag, standard, color, ensign, or article, substance, or thing, did not exist when this Section took effect.

1916, XXIX, 925

(170) § 48. Misdemeanor to Publish Name of Person Raped.—Whoever publishes, or causes to be published, the name of any woman, maid or woman-child, upon whom the crime of rape or an assault with intent to ravish has been committed or alleged to have been committed, in this State, in any newspaper, magazine, or other publication, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or imprisonment of not more than three years: *Provided,* The provisions of this Section shall not apply to publications made by order of Court.

Crim. Code, '12, § 317; 1909, XXVI, 208.

(171) § 49. Selling Property on Which Lien Exists.—Any person or persons who shall wilfuly and knowingly sell and convey any real or personal property on which any lien exists, without first giving notice of such lien to the purchaser or purchasers of such real or personal property, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be imprisoned for a term not less than ten days nor more than three years, and be fined not less than ten dollars nor more than five thousand dollars, or either or both, in the discretion of the Court: *Provided,* That the penalties enumerated in this Section shall not apply to public officers in the discharge of their official duties: *Provided, further*, When the value of such property does not exceed twenty dollars, the punishment shall not exceed a fine of one hundred dollars, or imprisonment not exceeding thirty days.

Crim. Code, '12, § 446; Crim. Code, '02, § 336; G. S. 2514; R. S. 276; 1872, XV, 332; 1892, XXI, 93; 1893, XXI, 411; 1894, XXI, 824.

CONSTRUED—

The lien of a judgment is as much within the meaning of the Section as any other lien. State *v.* Johnson, 20 S. C. 387.

A sale without giving notice of lien of which the vendor was ignorant is not offense. *Ib.*

Notice sufficient to lead to knowledge of the liens is all required. *Ib*

TRIAL—

The offense of selling is but one offense, no matter how many liens then existing, and the Solicitor cannot be required to indicate which one of the liens he relies upon. *Ib.*

JUDGMENT—

Motion for arrest of, on refusal of Judge to require election, was properly refused. *Ib.*

(172) § 50. Selling Personal Property under Mortgage.—Any person or persons who shall sell or dispose of any personal property on which any mortgage or other lien exists, without the written consent of the mortgagee or lienee, or the owner or holder of such mortgage or lien, and shall fail to pay the debt secured by the same within ten days after such sale or disposal, or shall fail in such time to deposit the amount of said debt with the Clerk of the Court of Common Pleas for the county in which the mortgage or lien debtor resides, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be imprisoned for a term not exceeding ten years, or be fined not more than five hundred dollars, or both, in the discretion of the Court: *Provided,* That the provisions of this Section shall not apply in cases of sales made without knowledge or notice of such mortgage or lien by the person so selling such property: *Provided, further,* That when the value of such property does not exceed twenty dollars, the punishment shall not exceed a fine of one hundred dollars, or imprisonment not exceeding thirty days.

Crim. Code, '12, § 447; Crim. Code, '02, § 337; G. S. 2515; R. S. 277; 1881, XVII, 560; 1892, XXI, 93; 1893, XXI, 411; 1894, XXI, 824.

This Section applies to all persons making such sales, not to the lienor alone and applies to all sales made under junior liens. State *v.* Reeder, 36 S. C. 497, 15 S. E. 544.

And to cases where prior lien arose under Statutes subsequently enacted. *Ib.*

The motive or intent of the seller is immaterial. *Ib.*

Erroneous advice of counsel does not excuse the offense. *Ib.*

Held constitutional and not in contravention to Article 1, § 24, Constitution. State *v.* Barden, 64 S. C. 206, 41 S. E. 959.

The term debt includes "cotton" due by tenant to landlord, covered by landlord's lien. State *v.* Barden, 64 S. C. 206, 41 S. E. 959; State *v.* Pinckney, 74 S. C. 446, 54 S. E. 606.

The contract between landlord and laborer creating lien must be witnessed by one or more disinterested persons. State *v.* Lanier, 79 S. C. 103, 60 S. E. 225.

Jurisdiction is determined by the value of the property, not by the amount due on lien. State *v.* Pinckney, 74 S. C. 446, 54 S. E. 606.

Agricultural liens. State *v.* Elmore, 68 S. C. 140, 46 S. E. 939; State *v.* Lanier, 79 S. C. 103, 60 S. E. 225.

Conditional agreement for lease or purchase of goods intended to secure payment of purchase money, constitutes lien within meaning of Statute. State *v.* Haynes, 74 S. C. 450, 55 S. E. 118.

If property mortgaged is removed with intention of selling it in another county, and it

is there actually sold, it is a violation of this section. State *v.* Perly, 87 S. C. 535, 70 S. E. 304.

INDICTMENT—

Motion to quash it is proper mode of objection when it is found by an illegal grand jury. State *v.* Williams, 35 S. C. 344, 14 S. E. 819.

It is not necesary to allege in the indictment the absence of lienee's consent. State *v.* Williams, 35 S. C. 160, 14 S. E. 309; McCall *v.* Alexander, 81 S. C. 131, 61 S. E. 1106.

Indictment should allege the value of the property but need not allege the name of the person to whom sold. State *v.* Perry, 87 S. C. 535, 70 S. E. 304.

JURORS—

Are not required to be freeholders or tax payers, and need not possess any other qualifications than those prescribed for electors or legislators. State *v.* Williams, *supra.*

Twelve constitute a legal grand jury. *Ib.*

Constitutional rights of trial by jury not violated as long as such trial by twelve jurors is prescribed. *Ib.*

EVIDENCE—

Not nessary for State to prove, as alleged in indictment, that lienor had not written consent of lienee to sell. *Ib.*

Confessions or admissions. State *v.* Shorter, 85 S. C. 170, 67 S. E. 131.

Actions for malicious prosecution under this Section. Stoddard *v.* Roland, 31 S. C. 342, 9 S. E. 1027; Aiken *v.* Lancaster Cotton Mills, 85 S. C. 180, 67 S. E. 166.

Elements of offense. State *v.* Boyer, 86 S. C. 260, 68 S. E. 573.

Removal from State with purpose or effect of defecting lien is a disposition of property in violation of the Act. State *v.* Haynes, 74 S. C. 450, 55 S. E. 118. But a mere removal of the goods to another State is not such disposition. Aiken *v.* Lancaster Cotton Mills, 85 S. C. 180, 67 S. E. 166; Whaley *v.* Lawton, 57 S. C. 256, 35 S. E. 558. Nor does the sale of property of the defendant lienor, against his will, under judicial process, render him liable to conviction. State *v.* Johnson, 51 S. C. 268, 28 S. E. 905. A person selling property under lien for advances with knowledge of prior lien for rent. State *v.* Reeder, 36 S. C. 497, 15 S. E. 544. Error in admitting absolute bill of sale as a mortgage State *v.* Rice, 43 S. C. 200, 20 S. E. 986. Disposition when complete. *Ib.*

This is not a felony; conviction does not render incompetent as witness. State *v.* Green, 48 S. C. 136, 26 S. E. 234.

Cited. State *v.* Smith, 108 S. C. 37; 93 S. E. 250. Hill *v.* Winnsboro Granite Corporation. 112 S. C. 243; 99 S. E. 836.

Applicable to junior mortgage. State *v.* Brice, 115 S. C. 280, 105 S. E. 408.

(173) § 51. Contractors to Pay Laborers Employed Out of Money Received for Contract.—It shall be the duty of any contractor or contractors, in the erection, alteration or repairing of buildings in the State of South Carolina, to pay all laborers, subcontractors and material men for their lawful services and material furnished out of the money received for the erection, alteration or repairs of buildings upon which said laborers, subcontractors and material men are employed or interested, and said laborers, as well as all subcontractors and persons who shall furnish material for said building, shall have a first lien on the money received by said contractor or contractors for the erection, alteration or repair of said buildings in proportion to the amount of their respective claims. Nothing herein contained shall make the owner of the building responsible in any way: *Provided,* That nothing contained in this Section shall be construed to prevent any contractor or contractors or subcontractors from borrowing money on such contract.

Any contractor or contractors or subcontractors who shall, for other purposes than paying the money loaned upon said contract, expend and on that account fail to pay to any or all laborers, subcontractors and material men out of the money received as provided in this Section and as admitted by such contractor or contractors, or as may be adjudged by any Court of competent jurisdiction, shall be deemed guilty of a misdemeanor, and, upon conviction, when the consideration for such work and material shall exceed the value of one hundred dollars, shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisonment not less than three months nor more than twelve months; and when such consideration shall not exceed the value of one hundred dollars, shall be fined not more than one hundred dollars, or imprisoned not longer than thirty days: *Provided,* Said contractor or contractors or sub-

contractors may have the right of arbitration by agreement with said laborers, subcontractors and material men.

Crim. Code, '12, § 451; Crim. Code, '02, § 338; 1896, XXII, 198; 1897, XXII, 487.

Misdemeanor not to pay laborers, etc., out of money borrowed upon the contract. State *v.* Campbell, 85 S. C. 11, 66 S. E. 1059.

(174) § 52. Fraudulent Removal of Property Levied by Sheriff.—Whoever, with intent to defraud, removes or secrets personal property which has been attached or levied on by the Sheriff, or any other officer authorized by law to make such attachment or levy, shall be held guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment in the county jail for a period not less than sixty days nor more than one year, or by fine of not less than one hundred dollars nor more than two hundred.

Crim. Code, '12, § 452; Crim. Code, '02, § 339; G. S. 2516; R. S. 278; 1873, XV, 448; 1879, XVII, 2.

(175) § 53. Fraudulent Packing of Cotton.—Any person or persons convicted of knowingly and wilfully packing into any bag or bale of cotton any stone, wood, trash, cotton, cottonseed, water, or any matter or thing whatsoever, or causing the same to be done, with the intent and purpose of cheating or defrauding any person or persons whomsoever in the sale of such cotton, or who shall exhibit or offer for sale any bag or bale of cotton so fraudulently packed, at the time of the said exhibit, or offer for sale knowing the same to be so fraudulently packed, shall on conviction thereof, as aforesaid, be sentenced to pay a fine of not more than five hundred dollars nor less than twenty dollars, and to be imprisoned for a term of not more than six months nor less than one month.

Crim. Code, '12, § 453; Crim. Code, '02, § 340; G. S. 2517; R. S. 279; 1875, XV, 976.

CONSTRUED—
To embrace false packing with water. State *v.* Holman, 3 McC. 306.
EVIDENCE—
Must show that defendant had knowledge of the false packing. State *v.* Pitts, 13 Rich 27.

(176) § 54. Charge of Breakage on Weighing of Cotton.—Any person who shall put and make the charge known as "breakage" upon the weighing of cotton shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than twenty-five dollars, or be imprisoned not more than thirty days, or both, in the discretion of the Court.

Crim. Code, '12, § 456; Crim. Code, '02, § 343; G. S. 2520; R. S. 282; 1878, XVI, 713.

(177) § 55. Making Way with Produce before Paid for, Fraud.—Any person engaged in the business of buying cotton, corn, rice, or such commodities, either on his own account or for others, who shall buy such on sale from a planter, commission merchant, or any other person or persons, for cash, and shall fail or refuse to pay for the same, and shall make way with or dispose of the same before he shall have paid therefor, shall be deemed guilty of fraud and embezzlement, and shall be liable, on conviction, to be imprisoned in the Penitentiary for a term not less than one year nor more than five years, at the discretion of the Court.

Crim. Code, '12, § 457; Crim. Code, '02, § 344; G. S. 2521; R. S. 283; 1877, XVI, 250.

Punitive damages allowed in civil action for violation of this Section. McDaniel *v.* Monroe, 63 S. C. 307, 41 S. E. 456.

(178) § 56. Factors Failing to Account for Produce Guilty of Fraud.—Any factor or commission merchant who shall receive from any planter any cotton, rice, or other agricultural produce, for sale, and shall sell the same and fail to pay over the net proceeds thereof to the planter on demand, or apply the same to his own use and benefit, or shall fail to account for the same in a satisfactory manner if unsold, shall be guilty of fraud and embezzlement, and, on conviction thereof, shall be imprisoned in the Penitentiary not less than one year nor more than five years, at the discretion of the Court.

Crim. Code, '12, § 458; Crim. Code, '02, § 345; G. S. 2522; R. S. 284; 1877, XVI, 250.

(179) § 57. Not Guilty if Products Destroyed by Accident.—No person shall be convicted under the provisions of the two preceding Sections if he can show that the cotton, corn, rice or other products received by him was destroyed by accident, after due diligence on his part, or that he was forcibly deprived of the possession thereof.

Crim. Code, '12, § 459; Crim. Code, '02, § 346; G. S. 2523; R. S. 285; 1877, XVI, 250.

(180) § 58. Licensee Must Keep Book—What Must Be Entered.—Any person to whom license to traffic in seed cotton may be granted shall keep at place of business a book in which shall be entered the date of every purchase, from whom purchased, and the quantity purchased, which book shall always be opened to inspection of persons applying therefor. Any person to whom license may be granted failing to comply with the requirements of this Section, shall, upon conviction, be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment of not less than fifteen days nor more than thirty days. One-half of the fine, when collected, shall be paid to the informer.

Crim. Code, '12, § 460; Crim. Code, '02, § 349; R. S. 287; 1887, XIX, 794; 1901; XXIII, 728.

Constitutional. Park *v.* Cotton Mills, 75 S. C. 560, 56 S. E. 234.

(181) § 59. No Deduction to Be Made on Sale of Cotton under Certain Conditions.—It shall be unlawful for any person, firm or corporation engaged in the business of buying cotton in this State, as principal or agent, to deduct any sum for bagging and ties from the weight or price of any bale of cotton, when the weight of the bagging and ties does not exceed six per cent. of the gross weight of such bale of cotton. In the event that the weight of the bagging and ties exceed six per cent. of the gross weight of such bale of cotton, only the excess over the said six per cent. may be deducted.

For each and every violation of this Section the offender shall be guilty of a misdemeanor and shall be fined in the sum of not less than five dollars nor more than twenty-five dollars, or imprisoned not less than ten days nor more than thirty days: *Provided,* This Section shall not apply to what is known in the trade as round bales, and bales of cotton which weigh less than three hundred pounds.

Crim. Code, '12, § 461; 1910, XXVI, 612.

Construed in State *v.* Mullins, 87 S. C. 510.

(182) § 60. Cotton Bales Weighing Not Less than Three Hundred Pounds Made Merchantable—Violation of.—It shall be unlawful for any cotton buyer to refuse to accept any bale of cotton, after he has bought the same by sample thereof, weighing over three hundred pounds, provided same corresponds in quality with sample bought by; and any such buyer who docks or deducts any amount from the purchase price of any such bale of cotton, or attempts to dock or deduct any amount from the purchase price of such bale of cotton, shall be deemed guilty of a misdemeanor, and, upon conviction before any Court of competent jurisdiction, shall be fined in the sum of not more than one hundred dollars nor less than twenty dollars.

Crim. Code, '12, § 462; Crim. Code, '02, § 351; 1899, XXIII, 90.

(183) § 61. Cotton Factors Required to Furnish Sworn Statements on Demand—Failure a Misdemeanor.—Any person or persons, firm or corporation, by whatever name styled, doing business as sales agent, exporter, dealing in or handling cotton on commission, be, and are hereby required to furnish to all persons for whom cotton is exported, sold or handled, when demanded by such person, a sworn itemized statement which shall show the name of the purchaser, the grade, the weight and the price received for such cotton. Such sworn itemized statement, shall be furnished with final account of gross sales, or whenever demanded by any one who is doing business with such person or persons as are set forth in this Section: *Provided,* That any one upon whom demand is made for such sworn itemized statement shall be allowed ten days time in which to furnish the same. Any one refusing or neglecting to furnish such sworn itemized statement shall be guilty of a misdemeanor, and, upon conviction, shall be fined in a sum of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned for not less than ten days nor more than thirty days on the county chaingang.

1915, XXIX, 113.

(184) § 62. Sale of Agricultural Seeds.—No person, firm or corporation shall, by himself or themselves, his or their rights or representatives of any persons, firms or corporations, sell or offer for sale or distribution within the State of South Carolina, for seed purposes, any lot or package of agricultural seeds exceeding one pound in weight, unless the same, when put in either open or closed packages, shall have attached thereto a label on which is plainly printed or written in the English language the following: (1) Name and kind of seed. (2) Full name and address of seedsman, importer, agent or dealer. (3) Statement of purity of the seed contained therein. (4) Germinating power of seed. (5) Locality where seed was grown, if known.

"Agricultural Seeds" Defined.—For the purpose of Sections (184) to (193), inclusive, the term "agricultural seeds" shall include seed of the red clover, either medium or mammoth clover, white clover, alsike clover, burr clover, crimson clover, lespedeza, alfalfa, timothy, orchard grass, Kentucky blue grass, red top, bromis inermic, oat grass, rye grass, the

fescues, the millets, the vetches, other grass and forage plant seeds, flax, rape, sorghum, rye, barley and other cereals and cotton.

Crim. Code, '12, § 470; 1910, XXVI, 758.

(185) § 63. Sale of Agricultural Seeds Regulated.—No agricultural seed, as defined in Section (184), shall be sold or offered for sale or distribution within the State which contain in greater number than 20 to 1,000 of the seeds under examination, the seeds of such noxious weeds as clover dodder, field dodder, white mustard, wild oats and such other weeds as may be designated in the regulations promulgated by the State Department of Agriculture. Where the seed of the weeds so designated are present in fewer numbers than 20 to 1,000 of the seed being examined, a statement shall be so made on the label attached to the package naming the weed seeds present therein.

Crim. Code, '12, § 471; 1910, XXVI, 758; 1914, XXVIII, 467.

(186) § 64. What Seeds Classed as Impurities.—The seeds of such weeds as sheep sorrell, green and yellow foxtail, yellow trefoil, chickenweed and other such weeds as may be prescribed in the regulations adopted by the Commissioner of Agriculture, and stated in circulars, shall be classed as impurities in agricultural seeds. When such impurities or any of them present in quantities exceeding two per cent. of said agricultural seed, the approximate percentage of each shall be plainly stated on the bag attached as specified in Section (184).

Crim. Code, '12, § 472; 1910, XXVI, 758; 1914, XXVIII, 467.

(187) § 65. Packages to State Percentage.—Sand, dirt, sticks, broken seeds, other seeds than those mentioned in the foregoing sections, or any other foreign matter, shall be considered as impurities when mixed with agricultural seeds sold, offered or exposed for sale in this State for seeding purposes. When such impurities are present in seeds exceeding the standard fixed in the regulations of the State Department of Agriculture, the name and approximate of each shall be stated on the label, as specified in Section (184).

Crim. Code, '12, § 473; 1910, XXVI, 758; 1914, XXVIII, 467.

(188) § 66. Regulations to Be Prescribed.—The Commissioner of Agriculture is hereby empowered to prescribe regulations designating when seeds shall be considered mixed or adulterated or misbranded and a germinating power standard.

Crim. Code, '12, § 474; 1910, XXVI, 758; 1914, XXVIII, 467.

(189) § 67. Matters Excepted From Provisions of Act.—The provisions of Sections (184) to (193), inclusive, shall not be construed as applying to: (1) Any person growing, possessing for sale or selling seeds for food purposes only. (2) Persons selling seeds containing impurities except as defined in the regulations, provided such seeds are sold to merchants to be recleaned before exposing for sale upon the general market. (3) Seed that is in store for the purpose of recleaning and which is not possessed, sold or offered for sale for seed purposes. (4) The sale of seed that is grown, sold and delivered by any farmer on his

own premises for seeding by the purchaser himself, unless the purchaser of said seed obtains from the seller at the time of the sale thereof a certificate that the said seed is supplied to the purchaser subject to the provisions of Sections (184) to (193), inclusive. (5) Mixtures of seeds for lawn purposes, except that the sale of such mixtures is sold subject to restrictions and regulations made therefor by the Department of Agriculture.

Crim. Code, '12, § 475; 1910, XXVI, 758; 1914, XXVIII, 467.

(190) § 68. What Seed Considered Pure.—For the purpose of Sections (184) to (193), seed shall be deemed pure when it complies with the foregoing provisions and contains no communicable disease.

Crim. Code, '12, § 476; 1910, XXVI, 758; 1914, XXVIII, 467.

(191) § 69. Commissioner of Agriculture, Etc., to Enforce Provisions.—The enforcement of the provisions of Sections (184) to (193), inclusive, is hereby placed under the direction of the Commissioner of Agriculture of South Carolina, and he is hereby empowered to appoint such inspectors and assistants, who may be inspectors, chemists, analysts, under the commercial feedstuffs Act, as may be necessary to execute its provisions. All examination of seeds shall be made at the State feedstuffs laboratory, under the supervision of the chief chemist thereof, and as far as possible from the funds provided by Section (192) upon the approval of the Commissioner of Agriculture, Commerce and Industries, the expenses of the examination shall be paid by the State.

Crim. Code, '12, § 477; 1910, XXVI, 758; 1914, XXVIII, 467.

(192) § 70. Samples to Be Sent Experiment Station.—It shall be the duty of the inspectors and assistants to collect samples of agricultural seeds in the open market and forward same to the State feedstuffs laboratory, where they shall be examined and analyzed in conformity with the provisions of Sections (184) to (193), inclusive, and the standards fixed by the regulations provided for herein. The inspectors and assistants are vested with all necessary powers for the proper execution of the duties, and to note all violations of any provisions of the said Sections, and to bring action in the proper Court or tribunal for prosecution of such violations, when directed to do so by the Commissioner of Agriculture. The results of all tests of seeds made by the laboratory shall be published in bulletins of the Department of Agriculture, together with the names and postoffice addresses of the persons, firms or corporations from whom all samples tested were obtained. For the purpose of Sections (184) to (193), inclusive, a sample of agricultural seed shall consist of not more than four nor less than two ounces of the seed to be examined. That for the purpose of defraying the expenses connected with the inspection and analysis of agricultural seed, each and every importer, seedsman, person, firm or corporation before selling or offering or exposing in this State any of the agricultural seeds specified in Sections (184) to (193), inclusive, shall obtain from the Commissioner of Agriculture, Commerce and Industries a license upon registration of the seeds they wish to sell; that a license fee of $25 per annum shall be paid annually to

the Commissioner by all seedsmen or others, doing a regular commercial seed business; a license fee of $2.50 annually by all retail dealers in mercantile establishments selling agricultural seed shall be paid to the commissioner; a license fee of $10 per annum by all proprietors of seed farms, and a license of $1.00 per annum by individuals who sell seed to others when their business amounts to at least $500 per annum in gross receipts. The said Commissioner is hereby empowered to prescribe such regulations as may be necessary for the enforcement of Sections (184) to (193), inclusive. The Commissioner may, by written order, suspend the sale of seed, not duly registered, and when seed are found to be in violation of the provisions of the Sections herein enumerated he may suspend sale, and seize and confiscate the goods through his duly authorized agents. That there is hereby appropriated for the purpose of enforcing the provisions of the said Sections a sum not exceeding the amount of fees and fines collected and moneys or proceeds derived from the seizure and sale of agricultural seeds under their provisions. Such expenses shall be paid by warrant of the Comptroller General upon itemized bills approved by the Commissioner of Agriculture, who shall pay into the State treasury monthly all fees collected under the provisions of the said Sections (184) to (193), inclusive, to constitute a special fund for the purposes herein specified.

Crim. Code, '12, § 478; 1910, XXVI, 758; 1914, XXVIII, 467.

(193) § 71. Misdemeanor to Violate Provisions of Sections (184) to (192).—Whoever violates any provisions named in Section (184) to (193), inclusive, or who shall attempt to interfere with the inspectors or assistants in the discharge of the duties named herein shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than ten dollars nor more than fifty dollars for each and every offense.

Crim. Code, '12, § 479; 1910, XXVI, 758; 1914, XXVIII, 467.

(194) § 72. To Impede the Commissioner of Agriculture, Etc., or Discriminate Against Employee as Member of Labor Organization, a Misdemeanor.—Every person or corporation who shall wilfully impede or prevent the Commissioner of Agriculture, Commerce and Industries, his agents or inspectors, in the free and full performance of his duties, or who shall discharge or discriminate in the payment of wages against any person because of his or her membership in a labor organization, shall be deemed guilty of a misdemeanor, and, upon conviction of the same, shall be fined not less than ten nor more than fifty dollars, or be imprisoned not less than ten nor more than thirty days.

Crim. Code, '12, § 487; 1909, XXVI, 15.

(195) § 73. Standard Weight for Bushels of Corn Meal—Sale in Packages—Penalty.—The standard weight of a bushel of corn meal, whether bolted or unbolted, shall be forty-eight pounds. It shall be unlawful for any person or persons to pack for sale, sell, or offer for sale, in this State, any corn meal or grist, except in bags or packages containing by standard weight two bushels, or one bushel, or one-half bushel, or one-fourth bushel, or one-eighth bushel, respectively. Each bag or pack-

age of corn meal shall have plainly printed or marked thereon, whether the meal is "bolted" or "unbolted," the amount it contains, in bushels or fraction of a bushel, and the weight: *Provided,* The provisions of this Section shall not apply to the retailing of meal or grist direct to consumers from bulk stock when priced and delivered by actual weight or measure. Any person or persons guilty of violating this Section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine of not exceeding one hundred dollars, or by imprisonment not exceeding thirty days, or by both fine and imprisonment, in the discretion of the Court.

Crim. Code, '12, § 489; 1903, XXVI, 126; 1906, XXV, 145.

(196) § 74. Slot Machines Unlawful, Except Those Giving Certain Returns.—It shall be unlawful for any person to keep on his premises or operate or permit to be kept on his premises or operated within this State, any slot machine of whatever name or kind, except automatic weighing, measuring, musical and vending machines which are so constructed as to give a certain uniform and fair return in value for each coin deposited therein, and in which there is no element of chance. Any person whomsoever who shall violate this Section shall be subject to a fine of not more than one hundred dollars, or imprisonment upon the public works of the county wherein the offense is committed for a period of not more than thirty days.

Crim. Code, '12, § 490; 1904, XXIV, 427.

Any machine not giving a certain and uniform return unlawful. Griste *v.* Burch, 112 S. C. 369; 99 S. E. 703.

(197) § 75. No Person to Sell Explosives Except Under Certain Conditions—Sworn Reports.—No person shall sell, deliver or dispose of dynamite or similar powerful explosives, except ordinary gunpowder, unless such person knows the purchaser or the party to receive the same, and is satisfied that the explosive is not to be used for killing fish, and then only upon a written application from party desiring to purchase, stating the purpose for which he desires to use the said explosives; and a person selling, delivering or disposing of such explosive shall keep a book in which shall be recorded the name of the purchaser or party to whom the explosive is delivered, the quantity sold or so delivered, and the date of such sale or delivery. That such person selling or keeping for sale the explosives mentioned in this Section be required to make sworn quarterly reports of such sales, name and race of purchaser or purchasers, amount sold and date of sale, to the County Auditor of each county. Any person violating this Section shall be guilty of a misdemeanor, punishable by fine not to exceed one hundred dollars, or imprisonment not to exceed thirty days.

Crim. Code, '12, § 491; 1903, XXIV, 124.

(198) § 76. Misdemeanor Fraudulently to Fail to Carry Out Contract for Personal Service.—Any person who shall contract with another to render him personal service of any kind, and shall thereafter fraudulently, or with malicious intent to injure his employer, fail or refuse to render such service as agreed upon, shall be deemed guilty of a misdemeanor.

1918, XXX, 809.

(199) § 77. Misdemeanor to Fail to Employ After Contract.—Any person who shall hereafter contract to receive from another personal service of any kind, and to compensate him therefor, and shall thereafter fraudulently, or with malicious intent to injure his employee, fail or refuse to receive such service or to make compensation as agreed upon, shall be deemed guilty of a misdemeanor.

1918, XXX, 809.

(200) § 78. Misdemeanor to Fraudulently Fail to Perform Services After Receiving Advances.—Any person who shall hereafter contract with another to render personal service of any kind to him, and shall thereafter fraudulently, or with malicious intent to injure the employer, procure advances in money or other thing of value from him, with intent not to render the service agreed upon, and who shall thereafter, with like intent, fail or refuse to perform the service agreed upon, shall be deemed guilty of a misdemeanor.

1918, XXX, 809.

(201) § 79. Misdemeanor to Receive Labor and Not Make Advances or Compensation.—Any person who shall hereafter contract with another to receive from him personal service of any kind, to compensate him therefor, and to make advances to him, and shall thereafter fraudulently, or with malicious intent to injure the employee, receive the benefit of such service, in whole or in part, and with like intent fail or refuse to make the compensation or advances agreed upon, shall be deemed guilty of a misdemeanor.

1918, XXX, 809.

(202) § 80. Contracts May Be Either Verbal or Written—To Be Read and Witnessed.—The contracts referred to in Sections (182) to (187), inclusive, may be either verbal or in writing; if in writing, they shall be witnessed by one or more disinterested persons, and at the request of either party be duly executed before a Magistrate, whose duty it shall be to read and explain the same to the parties. Such contract shall clearly set forth the conditions upon which the laborer or laborers engaged to work, embracing the length of time, the amount money to be paid, and when; if it be on shares of crops, what portion or portions thereof. If verbal, they must be witnessed by at least two disinterested witnesses, not related by blood or marriage within the sixth degree, to either party, and the term of service contracted for must be for a definite time, not exceeding one year. All such contracts shall be valid only between the original parties thereto, and any attempted transfer or assignment of any right thereunder shall be null and void.

1918, XXX, 809.

When neither warrant nor testimony shows whether contract was within the Statute, conviction cannot be sustained. State *v.* Williams 97 S. C. 449; 81 S. E. 154.

Under Former Statutes—

State *v.* Long, 66 S. C. 398; 44 S. E. 960.
Ex parte Hollman, 79 S. C. 9; 60 S. E. 19.
Ex parte Drayton, 153 Fed. 986.
State *v.* Williams 32 S. C. 123; 10 S. E. 176.
State *v.* Robinson 70 S. C. 468; 50 S. E. 192.
State *v.* Chapman, 56 S. C. 420; 34 S. E. 961.
State *v.* Easterling, 61 S. C. 71; 39 S. E. 250.
As to former jeopardy McInvaille *v.* Rouse, 86 S. C. 344; 68 S. E. 629.

(203) § 81. Registration of Contracts.—If either party to any written contract herein referred to desires to avail himself of the benefits of Sections (198) to (203), inclusive, against third parties, he shall cause the same to be indexed in the office of the Register of Mesne Conveyance or the Clerk of the Court (where the office of Register of Mesne Conveyance does not exist) of the county in which said labor or service is to be performed, within ten days from the date of the contract; and such indexing shall constitute notice to all third parties. Said index shall show the names of the employer and the laborer, the date of the contract and the date of its termination, and the location and the name of the place or places whereon the said labor or service is to be performed. The Clerk of the Court or the Register of Mesne Conveyance, as the case may be, shall indorse his official certificate and the date of filing to be indexed upon every such contract filed under the provisions of Sections (198) to (204), inclusive, and his only fee for the same shall be five cents for each contract. And the Clerks of Court, or the Register of Mesne Conveyances, as the case may be, in all the counties of the State shall provide a book for indexing such contracts, which shall be plainly labeled "Index Labor Contracts."

1918, XXX, 809.

(204) § 82. Punishment for Violation of Provisions As to Contracts.—Upon conviction in a Court of competent jurisdiction of any person charged with a violation of Sections (198) to (203), inclusive, the person so convicted shall be punished by a fine not less than twenty-five dollars and not exceeding one hundred dollars, or by imprisonment not less than twenty days and not exceeding thirty days for each offense: *Provided*, That there shall be no prosecution under Sections (198) to (203), inclusive, unless the arrest warrant shall be issued within thirty days from the commission of the offense. Sections (198) to (203), inclusive, are not intended, and shall not be construed to protect any of the parties to, or punish the violation of, any contract or matter connected therewith, where the inducement or consideration of such contract is money or other thing of value advanced to or for the employee prior to the commencement of service thereunder. All such contracts are hereby prohibited and declared null and void.

1918, XXX, 809.

(205) § 83. Fraud in Relation to the Violation of Contracts for the Lease of Lands, or Working on Share of Crops, Etc., a Misdemeanor.—1. Whoever shall enter into a contract with the owner for lease of lands in this State, or for cultivating same on shares of crops, and by virtue of the promises and agreement in said contract, shall fraudulently and with malicious intent to injure the owner, secure from the said owners the possession and occupation, or right of possession and occupation of said lands, money, supplies, fertilizers or anything of value, or who shall, without just cause, and with intent to cheat and defraud the owner, abandon the said lands, or refuse to enter into the possession and cultivation of the said lands to the injury of said owner, shall be guilty of a misdemeanor and fined in the sum of not less than twenty-five dollars or more

than one hundred dollars, or be imprisoned for not less than fifteen days nor more than thirty days. The contract herein referred, to, if verbal, shall be witnessed by at least two disinterested witnesses.

2. Whoever shall enter into a contract to lease to another any lands in this State or work the same on shares of crops, and shall without just excuse and with intent to cheat and defraud the lessee or laborer, withhold from him the peaceable entry, possession, use and occupation of said land, shall be guilty of a misdemeanor and shall be fined in the sum of not less than twenty-five dollars or more than one hundred dollars, or be imprisoned for a period of not less than fifteen days nor more than thirty days.

Crim. Code, '12, § 500; 1907, XXV, 536; 1912, XXVII, 774.

Does not apply when use of land is part of defendant's compensation for labor. State *v.* Martin, 111 S. C. 366; 98 S. E. 129.

(206) § 84. Unlawful to Offer Checks or Script to Laborers—Not Applicable to Bank Checks.—Any person or persons who shall offer to any laborer or employee, at the time when the wages of such laborer or employee are due and payable by agreement, unless otherwise provided for by special contract, as compensation for labor, or services performed, checks, or scrips of any description, known as plantation checks, payable at some future time, or in the shops or stores of employers, in lieu of lawful money, shall be liable to indictment and punishment by a fine not exceeding two hundred dollars, or by imprisonment not exceeding one year, or both, according to the discretion of the Court: *Provided,* The word "checks" herein shall not be construed so as to prohibit the giving of checks upon any of the authorized banks of deposit or issue in this State.

Crim. Code, '12, § 503; Crim. Code, '02, § 358; G. S. 2086; R. S. 290; 1872, XV, 216; 1875, XV, 899; 1879, XVII, 7.

(207) § 85. Enticing Laborers Under Contract.—Any person who shall entice or persuade, by any means whatsoever, any tenant, servant or laborer, under contract with another, duly entered into between the parties or between parents or guardians for the services of their minor children or wards before one or more witnesses, whether such contract be verbal or in writing, to violate such contract, or shall employ such laborer knowing such laborer to be under contract with another, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than one hundred dollars, or to be imprisoned in the county jail not less than ten nor more than thirty days.

Crim. Code, '12, § 504; 1913, XXVIII, 33.

(208) § 86. Acquisition of Trade Checks a Misdemeanor.—Any person, firm or corporation who shall acquire any trade check, payable either in money or in merchandise, which has been given directly or indirectly, for the payment of the wages of a laborer, for less than the actual par value at and in which said trade check is payable, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine not exceeding one hundred ($100.00) dollars, or by imprisonment not ex-

ceeding thirty days. Any person, firm or corporation who shall acquire such trade check for less than its face value shall have no right to collect and enforce the payment thereof.

1915, XXIX, 180.

(209) § 87. Textile Corporations to Have Weekly Pay Day—Penalty.—All corporations engaged in textile manufacturing in this State shall have a regular pay day once in every week for the payment of the wages which have been earned by the laborers during the preceding week, and any such manufacturing corporation refusing to have a weekly pay day shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than two hundred dollars for each offense.

1916, XXIX, 937.

(210) § 88. Employers Requiring Notice from Employee Quitting Work, to Post Notice of Shut Down.—All employers of labor in this State, requiring notice from any employee, of the time such employee will quit work, shall give notice to its employees, of its purpose to quit work, or shut down, by posting a printed notice stating the date of the beginning of the shutdown or cessation from work, and the approximate length of time the continuous shutdown is to continue, in each room of its building; not less than two weeks or the same time as is required of employees before so stopping work, or shutting down, of its purpose to stop work or shut down: *Provided,* That they are not required to do so by reason of some unforeseen accident to machinery, or by some act of God or of the public enemy.

Any employer of labor subject to the provisions of this Section, failing to post such notice in the manner herein provided, shall be subject to a fine of not exceeding five thousand dollars, upon conviction; and in addition thereto shall be liable to each and every one of its employees, for such damages as each and every one of its employees may suffer by failure to give such notice.

1912, XXVII, 750.

(211) § 89. Unlawful to Use as Advertisement Cross Usually Used as Crossing Sign by Railroads.—It shall be unlawful for any person, firm or corporation to use for advertising purposes the kind of a cross usually used as a crossing sign by steam and electric railroads. Any violations of the provisions of this Section shall be punishable by a fine of not more than one hundred ($100.00) dollars or imprisonment for not more than thirty (30) days. It shall be the duty of the Road Supervisor of the various counties in this State to remove and destroy any signs hitherto erected by any person, firm or corporation for advertising purposes, in violation of this Section.

1917, XXX, 161.

(212) § 90. Fraud in Sale of Goods Marked "Sterling," "Coin," Etc., Punished.—A person who makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, any article of merchandise marked, stamped, or branded with the words "sterling"

or "sterling silver," or encased or enclosed in any box, package, cover or wrapper, or other thing in or by which the said article is packed, enclosed or otherwise prepared for sale or disposition, having thereon any engraving or printed label, stamp, imprint mark, or trademark indicating or denoting by such marking, stamping, branding, engraving or printing that such article is silver, sterling silver or solid silver, unless nine hundred and twenty-five one-thousandths of the component parts of the metal of which the said article is manufactured are pure silver, shall be deemed guilty of a misdemeanor. A person who makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of any article of merchandise marked, stamped or branded with the words "coin" or "coin silver," or enclosed in any box, package, cover or wrapper, or other thing in or by which the said article is packed, enclosed or otherwise prepared for sale or disposition, having thereon any engraving or printed label, stamp, imprint, "mark" or "trademark" indicating or denoting by such marking, stamping, branding, engraving or printing that such article is "coin" or "coin silver," unless nine hundred and twenty-five one-thousandths of the component parts of the metal of which the said article is manufactured are pure silver, shall be deemed guilty of a misdemeanor. Whoever violates the provisions of this Section shall, upon conviction, be subject to a fine not exceeding one hundred dollars for each offense, or be imprisoned in the county jail for not more than thirty days.

Crim. Code, '12, § 510; Crim. Code, '02, § 363; 1894, XXI, 797.

(213) § 91. Sale of Certain Firecrackers Prohibited.—It shall be unlawful for any person, whether in his own right, or as agent, to sell, offer for sale, barter, exchange, or give away within the limits of this State any firecracker, cannon cracker, bomb, or any other kind of explosive cracker commonly called firecracker or fireworks, by whatever name designated or known, exceeding three inches in length and exceeding one-half inch in diameter, or any kind of firecracker, cannon cracker, bomb or explosive cracker by whatever name called or known containing dynamite or any substance that is poisonous when taken internally by children or other persons. Anyone violating the provisions of this section shall upon conviction, be punished by a fine not exceeding five hundred ($500.00) dollars, or imprisonment not exceeding one year, or both, at the discretion of the Court.

Crim. Code, '12, § 161; 1902, XXIII, 1095; 1921, XXXII, 158.

(214) § 92. Sale of Certain Toy Pistols Prohibited—Penalty.—It shall be unlawful for any person, firm or corporation, in this State, to sell, keep for sale or offer for sale, or give away, any toy pistol, in which caps or cartridges are used, or any caps or cartridges for such toy pistol. Every person, firm or corporation violating the provisions of this Section, shall, upon conviction, be fined not exceeding one hundred dollars, or be imprisoned (in case of an individual) for a term not to exceed thirty days.

Crim. Code, '12, § 512; 1903, XXIV, 123.

(215) § 93. Penalty for Hawking and Peddling Without License.—If any hawker or peddler sell or expose for sale any goods, wares or merchandise in any county in this State, without having obtained a license for that purpose from the Clerk of Court of Common Pleas of the county within which he is exposing for sale or selling such goods, wares and merchandise, as required by law, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than fifty dollars, or imprisonment in the county jail not more than thirty days.

Crim. Code, '12, § 511; Crim. Code, '02, § 364; G. S. 1341; R. S. 294; 1876, XVI, 64; 1893, XXI, 408.

State *v.* Belcher, 1 McM. 42; State *v.* Powell, 10 Rich. 373; State *v.* Morehead, 42 S. C. 211, 20 S. E. 544; Alexander *v.* Greenville, 49 S. C. 527, 27 S. E. 469; State *v.* Coop, 52 S. C. 508, 30 S. E. 609.

City ordinance held in violation of interstate commerce provisions of U. S. constitution. Laurens *v.* Elmore. 55 S. C. 477, 33 S. E. 560

One who solicits orders for medicines to be shipped into the State from another State, and here to be delivered by another person, is not a hawker or peddler. State *v.* Ivey, 73 S. C. 283, 53 S. E. 428, 23 Stats. 1101.

(216) § 94. Vendors and Hawkers Prohibited from Going on Private or Corporate Premises Without Permission.—It shall be unlawful for any agent, vendor or hawker, whether representing a corporation or selling goods of any kind for his own personal gain, to enter upon the premises of another person for the purpose of soliciting business or orders from the employees of the place without first obtaining consent of the owner: *Provided,* The provisions of this Section shall apply only when the party takes a mortgage or lien for the goods or articles of property sold: *Provided, however,* That the provisions of this Section shall not apply to agents or representatives of insurance companies: *Provided, further,* That the provisions of this Section shall not apply to producers of agricultural products, nor to agents of persons, firms or corporations conducting regular mercantile or other business establishments within the county in which the sale or solicitation of business takes place. For each and every violation of this Section the offender shall be deemed guilty of a misdemeanor, and, upon conviction in any Court of competent jurisdiction, shall be punished by a fine of not less than twenty-five dollars, or imprisonment at hard labor for not less than twenty days: *Provided,* That the provisions of this Section shall not apply to farmers offering their products for sale and to persons taking orders for merchandise or delivering same for regular merchants. The provisions of this Section shall not apply to incorporated towns and cities of this State nor to cotton mill villages.

1914, XXVIII, 581.

(217) § 95. Itinerant Horse Trading and Fortune-Telling Unlawful Without License—Licenses—Act Ineffective in Absence of County Action.—It shall be unlawful for any person or persons to follow the business of horse trading or fortune-telling in any of the counties of this State, by traveling from place to place without first obtaining from the Clerk of the Court of the county in which they wish to follow their trade, a license permitting them to do so. Such license shall be issued by the Clerks of the Court of the counties of this State to any person applying for same upon payment by said applicant, of the sum of $100.00. Said license shall specify the name of the applicant, his or her former resi-

dence, and shall be for a period of one year, from the issuance thereof: *Provided,* This Section shall not be effective in any county until the County Board of Commissioners of such county authorize, by resolution, the collection of such tax. Any person violating the provisions of this Section, shall be guilty of misdemeanor, and upon conviction shall be punished by a fine of not more than $100.00, or imprisonment for not more than thirty days for each and every offense, provided that the provisions of this Section, shall not apply to livery or sales stable owners, who have a permanent residence within the State.

1916, XXIX, 703.

(218) § 96. **Unlawful for Nomadic Individuals to Encamp, Engage in Fortune-Telling, or Trade Without a License—Penalty—Not to Apply to Clarendon and Union Counties.**—It is hereby declared unlawful for any nomadic individual, or bands of such, to encamp, engage in fortune-telling or to trade in horses or mules, or other animals or commodities within any county of this State, without first having obtained a license from the Clerk of Court therefor in the sum of three hundred dollars; a violation of this Section shall be deemed a misdemeanor and punishable by fine or imprisonment, or both, in the discretion of the Court: *Provided,* That the provisions of this Section shall not apply to Clarendon County: *Provided,* This Section shall not apply to Union County.

1918, XXX, 801.

(219) § 97. **Entomologist Empowered to Enter Any Premises.**—The Entomologist appointed by the State Board of Entomology, or his assistant, is hereby authorized and empowered to enter upon any premises in this State for the discharge of the duties prescribed by the Civil Code, or hereby prescribed, or that may be prescribed by said Board; and any person or persons who shall pester or hinder him in the discharge of such duties shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days.

Crim Code, '12, § 513; 1903, XXIV, 23.

(220) § 98. **Failure to Follow Treatment Prescribed for Trees.**—Failure or refusal on the part of the owner of the premises to execute the treatment prescribed by the Entomologist, or to destroy trees, plants or vineyards as directed by him, shall be deemed a misdemeanor, and, upon conviction thereof, such owner shall be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days: *And provided, further,* That the provision in reference to destroying plants shall not refer to cotton, corn, grain or such other field plants as are not subject to sale and transportation. No compensation shall be paid to the owner of the premises for any plant that shall thus be destroyed.

Crim. Code, '12, § 514; 1903, XXIV, 24.

(221) § 99. **Sale of Infested Plants Prohibited.**—It shall be unlawful to sell or offer for sale, or transport within this State, plants, buds, trees, shrubs, vines, tubers, roots and cuttings that have not been inspected or

bear the inspection tag of the said Entomologist; and any person or persons violating the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days.

Crim. Code, '12, § 515; 1903, XXIV, 24.

(222) § 100. **Importation of Plants.**—It shall be unlawful for any grower of fruit trees, nurserymen or corporation to ship within this State any trees, shrubs, cuttings, vines, bulbs or roots without having the same previously examined by said Entomologist, or by his assistant, within six months next preceding date of such shipment, a certificate of such inspection in such form as may be adopted by said Board to accompany each box or package. Any person or corporation violating the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding thirty days.

Crim. Code, '12, § 516, 1903, XXIV, 24.

(223) § 101. **Transportation of Plants.**—No transportation company or common carrier shall deliver any box, bundle or package of trees, shrubs, cuttings, vines, bulbs or roots, shipped by parties residing without the limits of this State to any consignee at any station in this State, unless each box, bundle or package is plainly labeled with a certificate of inspection furnished by the official Entomologist of the State in which said stock was grown, and also with the official tag of the State Board of Entomology. Any person or persons violating the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding one hundred dollars. For the enforcement of this Section, the Sheriff of each county in the State is hereby authorized and empowered, and it shall further be his duty, to seize such goods that do not bear the official tag of this Board, and hold the same until inspected and pronounced by the Entomologist, whom he shall notify at once to be free from the diseases and insects declared to be injurious by the said Board.

Crim. Code, '12, § 517, 1903, XXIV, 25.

(224) § 102. **Sale of Diseased Plants a Misdemeanor.**—It shall be unlawful to sell, or offer for sale, or transport plants, buds, trees, shrubs, vines, tubers, bulbs, roots or cuttings, known to be infested with dangerous or injurious insects or plant diseases; and any person or persons violating the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days.

Crim. Code, '12, § 518; Crim. Code, 1902, § 366; 1900, XXIII, 703.

(225) § 103. **Unlawful to Enter Race Horses Under Assumed Names.**—It is hereby made unlawful in this State for any person or persons knowingly to enter, or cause to be entered, for competition, or to compete for any purse, prize, premium, stake or sweepstake offered or given by any

agricultural or other society, association, person or persons, or to drive any horse, mare, gelding, colt or filly, under an assumed name, or out of its proper class, where such prize, purse, premium, stake or sweepstake is to be decided by a contest of speed. That any person or persons found guilty of a violation of this Section shall, upon conviction thereof, be imprisoned for a period of not more than one year, or shall be fined in any sum not exceeding one thousand dollars.

Crim. Code, '12, § 519; 1904, XXIV, 530.

(226) § 104. Name of Race Horses Not to Be Changed Except Under Rules Prescribed.—The name of any horse, for the purpose of entry for competition in any contest of speed, shall not be changed after once having contested for a prize, purse, premium, stake or sweepstake, except as provided by the code of rules of the society or association under which the contest is advertised to be conducted. That the class to which a horse belongs, for the purpose of an entry in any such contest of speed, shall be determined by the public performance of said horse in any former contest or trial of speed, as provided by the rules of the society or association under which the proposed contest is advertised to be conducted. And any person or persons knowingly misrepresenting or fraudulently concealing the public performance in any former contest or trial of speed of any horse which he or they propose to enter for competition in any such contest, shall, upon conviction thereof, be liable to the same punishment as provided in the preceding Section, whether he or they shall succeed in making said entry or not.

Crim. Code, '12, § 520; 1904, XXIV, 530.

(227) § 105. Alterations of Teeth of Horses a Misdemeanor.—Any person who files down, drills or bores holes in, or otherwise makes alterations in the teeth of any horse or mule, for the purpose of deception as to the age of such animal, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment for not exceeding thirty days, or by a fine not to exceed one hundred dollars.

Crim. Code, '12, § 521; 1904, XXIV, 498.

(228) § 106. Unlawful to Bring Into This State Certain Animals Until Examined.—It shall be unlawful for any transportation company, person or corporation to bring into the State any horses, mules, asses, cattle, sheep or swine for work, feeding, breeding or dairy purposes, unless such animals have been examined and found free from the following contagious diseases, to wit: Glanders, farcy, tuberculosis, scabies, maladie du colt, hog cholera, epizootic, lymphangitis or any other contagious or infectious disease, which freedom from disease shall be established by a certificate of health signed by a State veterinarian or assistant State veterinarian of the State from which such shipment is made, or a veterinarian of the United States Bureau of Animal Industry, or by a veterinarian acting under the direction or order of the associate professor of veterinary science of Clemson College, who shall act as State Veterinarian of South Carolina. The certificate of health and permit given by the above mentioned veterinarian shall be given in duplicate, the original of which

shall be forwarded to the State Veterinarian of South Carolina, and the duplicate given to the railroad or transportation company to be attached to the bill of lading for said animals: *Provided,* That in the case of cattle over six months of age, to be used for breeding or dairy purposes, the non-existence of tuberculosis shall have been determined by the tuberculin test within thirty days preceding such importation, and certified by the veterinarian issuing the above mentioned certificate of health and permit. The tuberculin test shall not be demanded for cattle intended for exhibit at town, county, district or State fairs.

Notice to Be Given State Veterinarian.—In any case where the inspection certificate as required in this Section has not been obtained, transportation companies shall notify the State Veterinarian and shall hold such animals at the first station within South Carolina, where are suitable facilities for holding animals for inspection by the State Veterinarian or his assistant; such inspection to be made at the expense of the owner.

Penalty for Violating This Section.—Any transportation company, corporation or agent thereof, or any individual, violating any of the provisions of this Section shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined for each offense not less than five hundred ($500) dollars nor more than one thousand ($1,000) dollars, or be imprisoned for not more than one year. Such transportation company, corporation or individual shall be liable in the civil action to any person injured for the full amount of damages that may result from the violation of this Section. Action may be brought in any county in the State in which said animals are sold, offered for sale or delivered to purchaser, or anywhere they may be detained in transit.

Exceptions.—The provisions of this Section shall not apply to cattle, hogs and sheep shipped to points within the State where the United States Department of Agriculture maintains inspection, or where local authorities may establish and maintain inspection of animals for slaughter under supervision of a graduate veterinarian of a recognized college.

Killing Diseased Animals—Compensation.—Neither tuberculous cattle nor glandered horses, mules or asses shall be killed as such until they have been inspected by the State Veterinarian or his assistant and are pronounced by him to be so diseased. And whenever any animal is killed because it is afflicted with either of said diseases, the actual cash value of the diseased animal immediately prior to killing and the cash value of the carcass, if any, shall be fixed within twenty-four hours thereafter, by appraisers chosen in the manner described in this Section. The value of the carcass shall be deducted from that of the living animal and three-fourths of the remainder shall be paid to the owner by the State in cases of horses and mules and one-third of such remainder shall be paid by the State in cases of cattle: *Provided,* That in no case shall the appraised value of a horse exceed one hundred and fifty ($150.00) dollars, nor of a tuberculosis cow of pure breed exceed one hundred and fifty ($150.00) dollars, nor shall any such animal be so appraised or paid for unless it be at least six

months old and have been in good faith owned and kept within the State for six months immediately before the killing.

Appraisement of Animals to Be Killed.—Whenever the State Veterinarian or his assistant shall decide upon the killing of an animal he shall notify the owner of such decision (in writing). If satisfactory to the owner, three appraisers shall then be chosen in the following manner: One to be appointed by the State Veterinarian (or his assistant), one to be appointed by the owner and the third to be the State Veterinarian or his assistant. The persons so appointed must be practical stock men, and their services shall be rendered free of charge. Appraisers thus chosen shall appraise diseased animals at their actual cash value immediately prior to the killing, and this amount shall be paid to the owner, less the value of the carcass, which shall also be appraised by the appraisers above mentioned. Should this method of appraisal be unsatisfactory to the owner, he may, within twenty-four hours after receipt of notice from the State Veterinarian, file with the Chairman of the Veterinary Committee of the Board of Trustees of Clemson College, a protest stating therein, under oath, that, to the best of his knowledge and belief, the animal is not infected with tuberculosis or glanders. Thereupon, if the animal be killed an autopsy shall be held by three experts, who shall be graduate veterinarians of a recognized college, one to be appointed and paid by the owner, one to be appointed by the State Veterinarian and paid by the State, and the third to be the State Veterinarian or his assistant. These three experts shall appraise such animal before it is killed at its actual cash value, and if the autopsy shows that the animal is entirely free from any such disease, the cash value of the animal immediately before the killing shall be paid to the owner by the State, less the value of the carcass. Appraisements made under this Section shall be in writing and shall be signed by the appraisers and certified by the local Board of Health and the State Veterinarian, respectively; these appraisements shall be transmitted to the Comptroller General of the State, who shall draw a warrant on the State Treasurer for the amount thereof. If any animal be killed by the order of the State Veterinarian or his assistant for the sole reason that it has been exposed to contagion or infection, the foregoing provisions as to autopsy, appraisal and payment shall apply and no protest need be filed.

Expenses of Appraisal.—The expert appointed by the State Veterinarian to assist in appraising animals, in cases of protest, shall receive from the State five ($5) dollars per day and traveling expenses while on actual duty. An itemized bill of expenses of this veterinarian, certified by the local Board of Health and the State Veterinarian, shall be transmitted to the Comptroller General of the State, who shall draw a warrant on the State Treasurer for the amount thereof.

Crim. Code, '12, § 522; 1909, XXVI, 209; 1919, XXXI, 92.

(229) § 107. Duty of Trustees of Clemson College Regarding Cattle —Reports—Regulation of Transportation.—The Board of Trustees of the Clemson Agricultural College shall be charged with the duty of making investigation adapted to promote and improve the marketing of cattle,

and especially investigation relating to the diseases of cattle and other domestic animals; shall from time to time ascertain in what section of the State cattle are free from contagious or infectious diseases, or splenetic fever; shall publish and distribute from time to time information relating to any contagious diseases and suggest remedies therefor, and shall have power in any such cases to quarantine such individual animals and to regulate the transportation of stock from one section of the State to another; may cooperate with the officials of other States and with the United States Department of Agriculture, in establishing and maintaining such cattle districts and quarantine lines as they may deem proper and best to prevent the introduction of cattle diseases, such as splenetic or Spanish fever, and to expend such funds as may be necessary to carry into effect any and all of the purposes aforesaid. And they are hereby vested with full power and authority to adopt and publish such rules and regulations as they may deem necessary and advisable to carry into effect any and all of the objects and purposes of this Section, or any or either of the matters referred to therein. Any person violating the terms of this Section, or any of the rules or regulations so adopted, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than one hundred dollars, or imprisoned not more than thirty days, and shall also be liable to any person injured for any and all damages resulting from such conduct.

Quarantine of Live Stock, Stockyards, Etc., by Veterinarian.—The State Veterinarian is authorized and directed to quarantine a stall, lot, yard, pasture, field, farm or town when he shall determine the fact that live stock in such place or places are affected with contagious, infectious or communicable disease, or when said live stock are infested or infected with the carrier or carriers of contagious, infectious, or communicable diseases. The State Veterinarian, assistant State Veterinarian, or live stock inspectors appointed by him, shall give written or printed notice of the establishment of said quarantine to the owners or keepers of said live stock. Any person who shall move live stock from these premises without written permission from the State Veterinarian, or an authorized live stock inspector, shall be guilty of a misdemeanor, and, on conviction, shall be punished for each and every violation by a fine not less than ten dollars nor more than one hundred dollars, or by imprisonment not less than ten days nor more than sixty days, or by such fine and imprisonment.

Crim. Code, '12, § 523; 1909, XXVI, 209.

(230) § 108. Unlawful to Permit Stock to Come Into This State and Run at Large.—It shall be unlawful for any person to drive, or cause to be driven, or in any other manner to permit them to come into this State, any horses, mules, hogs, cattle, sheep, or other live stock, and suffer it to run at large in any marsh, or forest lands, or range in this State. Any person so offending shall be subjected to a penalty of five dollars for each head so permitted to run at large, to be recovered for the benefit of any one who may sue for the same, or proceed by attachment in case the offender cannot be found in this State: *Provided,* This Section shall not apply to any person owning lands in this State, and permitting such stock to run at large, as aforesaid, upon his own lands, nor to any person

driving, or causing to be driven, any such stock to or from market, or for breeding purposes.

Crim. Code, '12, § 524; 1903, XXIV, 124.

(231) § 109. Sale of Goods, Etc., Prohibited Within One-Half Mile of Camp Ground.—It shall be unlawful for any itinerant trader or tradesman, or other than established dealer of the community, to offer for sale any goods, wares or merchandise within one-half of a mile of any camp ground or other place of religious meeting, while meetings are in progress, outside an incorporated town or city, except with the permission of the trustees or other board of management of such meeting: *Provided,* This Section shall not apply to vendors of fresh fruit or vegetables or any farm product. Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding fifty dollars, or be imprisoned not exceeding twenty days.

Crim. Code, '12, § 525; Crim. Code, '02, § 372; 1901, XXIII, 750.

(232) § 110. Use of Bottles, Kegs, Etc., of Others in Trade.—It shall be unlawful for any person engaged in the business of manufacturer, bottler or dealer in beer, soda water, or mineral waters, to use in the course of his business, any kegs, boxes, crates or bottles owned by any other person engaged in such business and rendered capable of identification by the name of the owner or other distinguishing marks stamped, stenciled, engraved, cut or in any other manner fixed thereon, without the consent of such owner in writing. No person, firm or corporation shall trade or traffic in any such boxes, crates, boxes, bottles, jugs, kegs or other such vessels, except for the consumption of said beer, soda water or mineral waters placed therein by the owners. Any violation of this Section shall be deemed a misdemeanor, punishable by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or both, at the discretion of the Court for each offense.

Crim. Code, '12, § 526; 1902, XXIII, 1103.

(233) § 111. Sale of Diseased Stock a Misdemeanor.—It shall be unlawful to sell or offer for sale, in this State, any horse, mule, cattle, hog, or any other live stock, that is known to be affected with any contagious disease, the tendency of which is to cause the death of any such live stock; and any person or persons violating the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding thirty days.

Crim. Code, '12, § 527; Crim. Code, '02, § 369; 1901, XXIII, 738.

(234) § 112. No Unlicensed Pilots to Act.—No person shall be authorized or permitted to conduct and pilot any vessel over the bar, when coming into or going out of port, unless such person shall have a license as aforesaid; and every person not having received such license, or having forfeited the same, or being deprived thereof as aforesaid, who shall presume to bring into, or carry out of the aforesaid port, any ves-

sel which has to cross the bar, as well as every pilot having a limited license of ten or twelve feet, who shall presume to conduct and pilot a vessel of more than ten or twelve feet, as the case may, over the said bar, either in coming in or going out, shall be entitled to no fee, gratuity, or reward for the same, but shall pay the regular pilotage to the pilot who shall first offer, and shall also be liable a fine of one hundred dollars, or imprisonment for not more than thirty days, or be suspended: *Provided, however,* That the foregoing prohibition shall not extend to prevent any person from assisting any vessel in distress without a pilot on board, if such person shall deliver up such vessel to the first pilot who shall afterwards come on board and offer to conduct such vessel; and also that the captain and crew of a vessel shall not be liable to such fine for conducting her over the bar without the aid of a pilot, if in either of the two last mentioned cases a signal for a pilot is worn.

Crim. Code, '12, § 398; 1909, XXVI, 187.

(235) § 113. Unlawful to Use Words "Bank" or "Banking" in Certain Cases.—It shall be unlawful for any person or persons in this State to use the word "Bank" or "Banking" in connection with any business, calling or pursuit, other than a legalized incorporated banking institution. Any person or persons violating the provisions of this Section shall be subject to a fine of not less than one thousand ($1,000) dollars and not more than ten thousand ($10,000) dollars and by imprisonment not exceeding ten years, nor less than one year, in the discretion of the Court.

1913, XXVIII, 107.

(236) § 114. Traffic in Milk Cans or Defacing Marks Thereon, Unlawful.—1. It is hereby declared to be unlawful for any person or persons, without the consent of the agent of the owner or owners or shipper or shippers, to use, or sell, dispose of, buy or traffic in any milk or cream can or cans, belonging to any dealer or dealers, or shipper or shippers of milk or cream residing in the State of South Carolina or elsewhere, who may ship milk or cream to any city, town or place within this State, having the name or initials of the owner or owners of such dealer or dealers, or shipper or shippers stamped, marked or fastened on such can or cans, or to wilfully mar, erase or change by remarking or otherwise, said name or initials of any such owner or owners, or dealer or dealers, or shipper or shippers so stamped, marked or fastened upon said can or cans.

2. Possession Without Consent, Presumptive Evidence.—The fact of any person or persons without the consent of the agent of the owner, dealer or dealers, or shipper or shippers thereof, either using, selling, disposing of, buying, trafficking in, or having in his, her, or their possession or under his, her, or their control any such milk or cream can or cans, shall be presumptive evidence of the unlawful use, sale, purchase of, or traffic in such can or cans.

3. Penalty.—Any person or persons who shall, in violation of this Section, either use, sell, dispose of, buy, traffic in or have in his, her or their possession any such can or cans, or who shall wilfully mar, erase or change by re-marking or otherwise the said initials of any such owner or owners,

dealer or dealers, shipper or shippers so stamped, marked or fastened upon said can or cans as in this Section provided, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding one hundred ($100.00) dollars, nor less than ten ($10.00) dollars, or by imprisonment not exceeding thirty days.

1918, XXX, 846.

(237) § 115. Handling, Etc., of Certain Motor Vehicles a Misdemeanor—Penalty.—Whoever knowingly, buys, sells, receives, disposes of, conceals or has in his possession any motor vehicle, from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed, for the purpose of concealment or misrepresenting the identity of the said motor vehicle, shall be guilty of a misdemeanor, and, on conviction, shall be fined not more than two hundred dollars, or imprisoned not more than six months, or both.

1918, XXX, 823.

(238) § 116. Record to Be Kept by Dealers in Crossties—Penalty for Violation.—Any person, firm or corporation, within South Carolina, dealing in crossties shall keep a book of record, which shall be open to the public, in which shall be legibly written the name of the party or parties from whom crossties are purchased, the number of crossties purchased, and the lands or premises from which the said crossties are cut or harvested. Any person violating the terms of this Section shall be subject to a fine of twenty-five dollars for each offense.

1918, XXX, 701.

(239) § 117. Violation of School Attendance Laws a Misdemeanor. —That any parent, guardian or other person having charge of any child subject to the provisions of Sections (2739) to (2753), Civil Code, who wilfully neglects or refuses to comply with those provisions, or any person, firm or corporation who shall induce such child to violate same shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any Magistrate, be fined not less than five nor more than ten dollars, or be imprisoned not less than five nor more than ten days. All fines collected under this Section are to be paid into the school fund for such district in which said offense was committed.

1915, XXIX, 108; 1919, XXXI, 205; 1921, XXXII, 754.

(240) § 118. Unlawful to Allow Minors to Play Pool or Billiards—Penalty.—It shall be unlawful for any keeper or owner of any pool or billiard tables to allow any minor under eighteen years of age to play pool or billiards in any place where tables are used and such games played, or to allow such minors to frequent or loiter in any billiard or pool room. Any owner, keeper, or person operating such gaming tables, violating this Section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned at hard labor for not less than ten nor more than thirty days. This Section shall not apply to Young Men's

Christian Associations or clubs or private homes where such games are played, for social purposes only, without fee, toll, or charge.

Crim. Code, '12, § 318; 1910, XXVI, 750.

(241) § 119. Felony for Officers of Bank to Receive Deposits After Knowledge of Insolvency.—It shall be felony for any president, director, manager, or cashier, or other officer of any banking institution, to receive any deposits or trusts, or to create any debts for such corporation, after he shall become aware that such corporation is insolvent; and every officer of such failing corporation shall become personally liable to the amount of such deposits or trusts received by him, or with his knowledge or assent, in any such case, to the person thereby damaged, whether criminal prosecution be made or not. And all persons convicted for felony, as herein provided, shall be punished by imprisonment for a term of not less than one year, and by a fine of not less than one thousand dollars.

Crim. Code, '12, § 346; Crim. Code, '02, § 259; G. S. 1348; R. S. 223; 1877, XVI, 232.

(242) § 120. Unlawfully Carrying Military Property—Penalty.—Any officer or enlisted man who shall, contrary to the lawful order of the proper officer, retain in his possession or control any arms, equipments or other article of military property belonging to the State or the United States, or who shall wilfully or maliciously destroy or injure any such property, or who shall, when not on duty, use or wear any such property without permission of his commanding officer, shall be tried therefor by a Magistrate, and, upon conviction, shall be fined not exceeding one hundred dollars or imprisoned not exceeding thirty days. Whenever such military property shall be found in the custody or possession of other persons, without right, any officer shall take possession of the same.

Crim. Code, '12, § 205; 1905, XXIV, 818.

(243) § 121. Fraudulent Disposition of Military Property—Unlawfully Wearing Insignia of Office.—Any person who shall secrete, sell, dispose of, offer for sale, purchase, retain after demand made by a commissioned officer of the National Guard, or in any manner pawn or pledge any arms, uniforms, equipments, or other military property, issued under the provisions of this Chapter, and any person who shall wear any uniforms, or any device, strap, knot, or insignia of any design or character used as a designation of grade, rank or office, such as are by law or by general regulation, duly promulgated, prescribed for the use of the active militia or similar thereto, except members of the Army and Navy of the United States and the National Guard of this or any other State, shall be tried therefor by a Magistrate, and upon conviction thereof, shall be fined not exceeding one hundred dollars or imprisoned not exceeding thirty days. All money recovered by any action or proceeding under this or the preceding Section shall be paid to the Adjutant and Inspector General, who shall apply the same to the use of the active militia.

Crim. Code, '12, § 206; 1905, XXIV, 818.

(244) § 122. No Dividends to Be Paid Unless Earned.—It shall be unlawful for any incorporated company to pay any dividends on the capital stock of such company, unless the same have been actually earned,

or are paid out of any surplus heretofore earned, and not set aside for a special purpose, upon the approval of the stockholders of the incorporated company to be affected.

Unlawful for Companies to Make False Statements.—It shall be unlawful for any officer or director of any corporation or company to make any false statement in regard to the financial condition of such company or corporation.

Penalty.—Any violation of this Section by the officers or agents of such company shall be punished by fine of not less than five hundred dollars or imprisonment for not less than six months.

Crim. Code, '12, § 211; 1909, XXVI, 21.

(245) § 123. Banks to Publish Quarterly Statements.—All institutions doing business in this State in lending money and receiving deposits, under Acts of incorporation granted by the State, are hereby required, under penalty of a forfeiture of their charters, to publish in a newspaper in the city, town or village where they, or any branch thereof, may do business, at the end of every three months a correct report of the condition and business of such institution, which report shall contain a statement, under oath, by the president or cashier of such institution, of the amount of the capital stock paid in, deposits, discounts, property and liabilities of said institution, verified by three of the directors thereof.

Upon failure of any such institution to publish the report required herein, the Attorney General, on notice thereof, shall at once take the necessary steps to vacate the charter of said institution. That said Section shall apply to all private banking institutions, whether chartered or not; and any person, firm or copartnership conducting the business of lending money and receiving deposits, refusing or neglecting to publish the statement herein provided, shall be deemed guilty of a misdemeanor, and, upon conviction in any Court of competent jurisdiction, shall be fined in the sum of not less than one hundred dollars or not more than one thousand dollars, or imprisoned at hard labor for a period of not less than three months, or not more than one year, or both, in the discretion of the Court.

Crim. Code, '12, § 255; 1904, XXIV, 398.

(246) § 124. Certain Shows Not to Exhibit Within Five Miles of An Agricultural Fair—Proviso—Violation a Misdemeanor.—All circuses and other large shows exhibiting under canvas are hereby prohibited from exhibiting within a radius of five miles of any agricultural fair in this State during the time of the holding of the said fair, except under the auspices of or with the consent of such fair association: *Provided,* If the executive officer of said fair consents in writing and said written consent is filed with the Sheriff of the county, this Section shall not apply to that exhibition of that show or circus. All persons in charge of, or in any way operating or assisting in carrying on, any such circuses or tent shows violating the provisions of this Section shall be fined in a sum not exceeding five hundred dollars or imprisonment for not longer than six months, or both, in the discretion of the Judge.

1918, XXX, 787.

(247) § 125. Tent Shows, Except Circuses and Chautauquas, Prohibited in Beaufort, Bamberg, Cherokee, Calhoun, Clarendon, Fairfield, Greenwood, Greenville, Hampton, Horry, Allendale, Lancaster, Laurens, McCormick, Newberry, Oconee, Kershaw, Charleston, and Pickens Counties.—No carnival and no traveling shows exhibiting under tent shall be allowed license or be allowed to exhibit within the Counties of Beaufort, Bamberg, Calhoun, Cherokee, Clarendon, Fairfield, Greenwood, Greenville, Hampton, Horry, Allendale, Lancaster, Laurens, McCormick, Newberry, Oconee, Kershaw, Charleston and Pickens, except circuses, which may be licensed for a time not exceeding forty-eight hours, any one year: *Provided,* That the provisions of this Section shall not apply to Chautauquas: *Provided, further,* that the provisions of this shall not apply to the city of Camden, in the county of Kershaw, during the time that any County Fair or Horse Show is held thereat, but other times this Section shall apply.

Any person owning, operating, or who is connected with or employed by any carnival company or show violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than twenty-five ($25.00) dollars nor more than one hundred ($100.00) dollars, or imprisonment of not less than five days nor more than thirty days. Every performance or exhibition of such show or carnival shall be a separate offense.

1917, XXX, 545; 1918, XXX, 764; 1919, XXXI, 150; 1920, XXXI, 927; 1921, XXXII, 331.

(248) § 126. Tent Shows, Except Circuses, Prohibited in Anderson County.—No carnival, or other traveling show exhibited under tent, shall be allowed license or allowed to exhibit such show within the County of Anderson, except circuses, which may be licensed for a time exceeding forty-eight (48) hours during any one year: *Provided, however,* That this Section shall not be construed to prevent the exhibition of genuine Chautauquas.

1919, XXXI, 117.

(249) § 127. Carnival and Tent Shows, Prohibited in Richland County—Provisos.—Penalty for Violation.—Hereafter it shall be unlawful for any carnival or tent show of like nature, or traveling show exhibiting under tent to exhibit in Richland county: *Provided,* That the South Carolina Agricultural and Mechanical Society may, within their discretion, permit carnivals and other like shows during the State Fair week to exhibit within the enclosure of the grounds of the South Carolina Agricultural and Mechanical Society: *Provided, further,* That the provisions of this Section shall not apply to Chautauqua or Colored State Fair: *Provided, further,* That it shall not apply to circuses, which circuses may be licensed for a time not exceeding forty-eight hours in any one year. Any person, firm or corporation violating the terms of this Section shall be fined in the sum of not less than five hundred ($500.00) dollars and three months imprisonment for each and every offense.

1921, XXXII, 256.

(250) § 128. Carnivals and Tent Shows Prohibited in Aiken and Barnwell Counties—Exceptions—Penalty.—Hereafter it shall be unlawful for a tent show or any carnival of a like nature, or traveling show under tent to exhibit in Aiken or Barnwell counties. *Provided,* That the provisions of this Section shall not apply to Chautauquas or to circuses, which circuses may be licensed for a time not exceeding forty-eight (48) hours in one year. Any person, firm or corporation violating the terms of this Section shall be fined in a sum of not less than five hundred ($500.00) dollars, or imprisoment for a period not less than three months for each and every offense.

1921, XXXII, 224.

(251) § 129. Carnivals and Tent Shows Prohibited in Chesterfield, Dorchester, Marlboro, Darlington, Lexington, Colleton, Chester, Union and York Counties—Provisos—Penalty.—It shall be unlawful for any carnival or tent show of a like nature, or traveling show exhibiting under tent to exhibit in Chesterfield, Dorchester, Marlboro, Darlington, Lexington, Colleton, Chester, Union, and York Counties, and no license shall be granted to any carnival company, or other like exhibition, within the Counties of Chesterfield, Dorchester, Marlboro, Darlington, Lexington, Colleton, Union and York: *Provided,* The management of the County Fair Association, during the county fair, may permit carnivals and other like shows during fair week within the enclosure of the grounds of the County Fair Association: *Provided,* That the provisions of this Section shall not apply to Chautauquas. *And provided,* Same shall not apply to circuses, which circuses may be licensed for a time not exceeding forty-eight hours in any one year.

Any person, firm or corporation violating the terms of this Section shall be fined a sum not less than five hundred ($500.00) dollars and three months imprisonment for each and every offense.

1920, XXXI, 927; 1921, XXXII, 100.

(252) § 130. Unlawful to Discharge Oil or Any Oil Product from Vessel in Harbor.—It shall be unlawful for any person, or persons, their agents, servants or employees, in charge of, or having custody of, any vessel, entering or while within any harbor in this State, to discharge, or permit to be discharged, from any vessel any seepage, or refuse of fuel oil, or any other oil product.

Any violation of this Section shall be a misdemeanor, and, upon conviction thereof, shall be subject to a fine not exceeding five hundred ($500.00) dollars, and if said fine is not paid, the same shall be deemed to be a lien on the vessel over which said person had control; said lien shall be a prior lien to all other liens except State taxes, and shall be enforceable as other liens are by the laws of this State.

It shall be the duty of the Port Commissioner or other officer or person in charge of, or having supervision over, vessels entering the ports of this State, to see that the provisions of this Section are in force.

1921, XXXII, 159.

(253) § 131. Failure to Accept Rates Prescribed by Public Service Commission, Water, Gas or Electricity.—Any person, firm or corpora-

tion now or hereafter owning or operating such water, gas or electric plant, who shall fail or refuse to accept the rate fixed by the Public Service Commission, appointed by the Governor, to be charged for water, gas, or electricity, and instead thereof shall charge, demand or receive a greater amount than that fixed by the Public Service Commission provided for in Chapter XIX of the Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than $25 nor more than $100, and each overcharge to any consumer of water, gas, or electricity shall constitute a separate offense, to be recovered in any Court of competent jurisdiction, one-half of such fine as may be imposed going to the informer and the other half to go to such city where the complaint arises.

Crim. Code, '12, § 276; 1910, XXVI, 564.

(254) § 132. Warehousemen Violating Regulations of Civil Code.—Any warehouseman, wharfinger, inspector, custodian or other person who shall wilfully violate any of the provisions of Sections (3903) to (3913) Civil Code, shall be deemed guilty of a misdemeanor, and upon indictment and conviction, shall be fined in any sum not exceeding five hundred dollars, or imprisoned for a term not exceeding one year, or both.

Crim. Code, '12, § 279; Crim. Code, '02, § 207; 1887, XIX, 853.

(255) § 133. Fraudulent Misrepresentation by Directors.—Any director who shall knowingly and wilfully make, or cause to be made, any fraudulent misrepresentation in any certificate required by Sections (4262) and (4263) of the Civil Code, as to the increase and decrease of capital stock, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than two thousand dollars, or by imprisonment for not more than two years, or both, in the discretion of the Court.

Crim. Code, '12, § 280; Crim. Code, '02, § 208; 1899, XXIII, 58.

(256) § 134. Any Officer of Corporation Guilty of a False Statement Guilty of Perjury.—Any president or other officer of a corporation organized under the laws of this State, who shall wilfully make any false statement under oath, when making and submitting the report required by Section (4295) of the Civil Code, shall be deemed guilty of wilful and corrupt perjury, and subject to the same punishment as is provided by law for wilful and corrupt perjury.

Crim. Code, '12, § 292; 1909, XXVI, 172.

(257) § 135. Misdemeanor to Fail to Make Corporate Report as Required.—Any president or other officer having the care and custody of the funds of any such corporation as is required to make report under Section (4295) of the Civil Code, who shall fail to make and submit the report as required by Section (4295) of the Civil Code, shall be deemed guilty of a misdemeanor, and shall be punished in the discretion of the Court.

Crim. Code, '12, § 293; 1909, XXVI, 172.

(258) § 136. Violation of Laws Governing Banking Companies by Directors or Officers Punished.—If any director or other officer of any bank incorporated under the Statutes of the State providing for "Banking Companies" shall be convicted upon indictment of directly or indirectly borrowing therefrom, except on good security, approved in writing by two-thirds of the whole board of directors of such bank; or shall become an endorser or surety upon any loan or credit made or extended to any other director or officer of such bank; or shall borrow from such bank, or lend to any of its directors, or any firm of which such director is a member, or any company or corporation of which such director is an officer, an amount or amounts exceeding at any one time one-tenth part of the capital stock of such bank actually paid in, in violation of Sections (3999) and (4000) of the Civil Code, he shall be punished by fine or imprisonment, or by both fine and imprisonment, at the discretion of the Court.

Crim. Code, '12, § 296; Crim. Code, '02, § 218; 1897, XXI, 463.

This does not impose civil liability on officers who lend the money. Wheeler *v.* Aiken, etc., Sav. Bank, 75 Fed. 781.

(259) § 137. Operation of Pool Table Without License.—Any one violating the provisions of Section (5175), Civil Code, shall be punished by a fine of not more than one hundred dollars, or imprisonment for not more than thirty days, for each day such table may be run or operated without such license. Counties excepted: This Section shall not apply to the counties of Dillon, Charleston or Union.

Crim. Code, '12, § 319; 1911, XXVII, 141; 1914, XXVIII, 570; 1916, XXIX, 925.

As to constitutionality of this and corresponding Section of Civil Code. Thomas *v.* Foster, Treasurer, 108 S. C. 98; 93 S. E. 397.

(260) § 138. Perjury for President or Cashier of Bank to Make False Return.—Any president or cashier of any bank of issue swearing falsely to any account required by provisions of Section (3971) of the Civil Code, shall be deemed guilty of perjury, and shall be subject to the pains and penalties thereof.

Crim. Code, '12, § 345; Crim. Code, '02, § 258; G. S. 1346; R. S. 222; 1855, XII, 699.

(261) § 139. Traffic in Seed Cotton Regulated—License—Penalty.—The traffic in seed cotton or unpacked lint cotton by purchase, barter or exchange, within the period beginning August 15, and ending December 20, in each year, except in the counties of Chesterfield and Marlboro, where they shall be licensed only from January 1, to August 1; and except in the County of Laurens, where they shall be licensed from February 1, to April 30; and except in the Counties of Lancaster, Lee, Greenwood and Kershaw, where they shall be licensed from April 1, to July 31; and except in the County of York, where they shall be licensed from May 1, to August 1; and except in the Counties of Williamsburg and Georgetown, where they shall be licensed from December 15, to August 1; and except in the County of Sumter, where they shall be licensed only from January 20, to August 1, of each year, without license or between the hours of sunset and sunrise, is declared against the public welfare and is prohibited.

The Clerks of the Courts of Common Pleas are authorized and empowered to issue licenses to traffic in seed cotton or unpacked lint cotton

by purchase, barter or exchange within the said periods and within their respective counties to such person or persons as shall file with said Clerks, respectively, a written application therefor, the granting of which shall be recommended, in writing, by at least ten landowners within the township wherein the said applicant intends to carry on such traffic. Such license shall specify the exact place whereat said traffic shall be carried on and the period within which such traffic is permitted, and shall continue in force for a period of one year from the date of issue, and for such license, if granted, a fee of not more than five hundred ($500.00) dollars and not less than one ($1) dollar, the amount of said license to be fixed by the County Board of Commissioners thereof, shall be paid by the applicant to the County Treasurer for the use of the county. All persons in the traffic in seed cotton and unpacked lint cotton are required to keep legibly written in a book, which shall be open to public inspection, the name of the person or persons from whom they purchase or receive by way of barter, exchange or traffic of any sort, any seed cotton or unpacked lint cotton, with the number of pounds and date of purchase.

Any person who shall engage in the traffic of seed cotton within the period beginning August 15, and ending December 20, except in the Counties of Chesterfield and Marlboro, where they shall be licensed from January 1, to August 1; and except in the County of Laurens, where they shall be licensed from February 1, to April 30; and except in the counties of Lancaster, Lee, Greenwood and Kershaw, where they shall be licensed from April 1 to July 31; and except in the County of York, where they shall be licensed from May 1, to August 1; and except in the Counties of Williamsburg anl Georgetown, where they shall be licensed from December 15, to August 1; and except in the County of Sumter, where they shall be licensed from January 20, to August 1 in each year, of any year without license, as herein provided, or between the hours of sunset and sunrise, or who shall fail to keep the book or record, as herein provided, shall be deemed guilty of a misdemeanor and on conviction shall be punished by a fine of not exceeding One Hundred Dollars or imprisonment at the discretion of the Court.

Crim. Code, '12 § 454; Crim. Code, '02, §§ 341, 342, 349; G. S. 2518, 2519; R. S. 280, 281, 287; 1877, XVI, 266; 1880, XVII, 475; 1882, XVII, 746; 1887, XIX, 794; 1901, XXIII, 728; 1905, XXIV, 912; 1908, XXV, 1125; 1910, XXVI, 635; 1911, XXVII, 26; 1913, XXVIII, 72; 1919, XXXI, 68; 1921, XXXII, 63.

See State *v.* Prater, 18 S. C. 317. As to unconstitutionality of local laws. State *v.* Ferri, 111 S. C. 97 S. E. 512.

(262) § 140. Regulations as to Sale of Seed Cotton in Portion of Marion County.—If any person residing in that portion of Marion County south of a line parallel to and exactly one mile north of the Wilmington, Columbia and Augusta Railroad, engaged in purchase, barter or exchange in seed cotton, shall fail on any Saturday night to post up in front of the place of business where seed cotton is purchased, bartered or exchanged, the amount of cotton purchased, bartered or exchanged during the week and the name or names of parties from whom the purchase or purchases were made, and the amount purchased and to keep said record posted for three months, or shall purchase any seed cotton within the limits above described

after the hour of five o'clock in the afternoon and before eight o'clock in the forenoon, as required by Section (3316) of the Civil Code, he shall, upon conviction, be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or imprisonment for not less than fifteen days nor more than thirty days, one-half of which fine, when collected, shall be paid to the informer.

Crim. Code, '12, § 455; Crim. Code, '02, § 348; 1884, XXI, 944; 1901, XXIII, 728.

(263) § 141. Cotton Buyers Required to Keep a Book—Misdemeanor —Punishment.—Any person who shall fail to keep a book, or record, of the number of the bales of cotton and furnish the seller a bill thereof, as required by Section (3312) of the Civil Code, shall, on conviction, be fined in a sum not exceeding one hundred dollars, or imprisoned not exceeding thirty days.

Crim. Code, '12, § 463; Crim. Code, '02, § 352; 1894, XXI, 793.

(264) § 142. Weighing Cotton Regulated—Violation.—Any person, persons or agents of any corporation weighing cotton in any cotton market or markets where a Public Weigher has been elected, except as prescribed in Article II, Chapter XXXV, of the Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five nor more than ten dollars for each offense, or imprisoned for not more than five days; except in Dorchester County where he shall be fined not more than one hundred dollars, or imprisonment not exceeding thirty days; and except in Columbia Township, in Richland County, where he shall be fined not exceeding fifty dollars, or imprisoned not exceeding ten days: *Provided,* Any and every person who shall sell or buy in said Columbia Township any cotton bale or bales contrary to the provisions of Section (3359) shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding fifty dollars or imprisonment, for not exceeding ten days for each offense.

Crim. Code, '12, § 464; Crim. Code, '02, § 353; 1894, XXI, 793; 1896, XXII, 58; 1906, XXV, 143; 1908, XXV, 1209; 1909, XXVI, 130; 1910, XXVI, 710, 712.

(265) § 143. Sale of Leaf Tobacco Regulated.—Any person willfully violating the provisions of Sections (3919) to (3924), Civil Code, regulating the statistics of leaf tobacco sold, shall be guilty of a misdemeanor, and punished within the discretion of the Court, and, in addition thereto, shall be subject to a penalty of five hundred dollars, to be sued for in the county in which the offender resides or does business; in case he resides without the State, by the Attorney General whenever he may be advised by the Commissioner of Agriculture that persons required by law to make reports to him have failed to do so.

Crim. Code, '12, § 465; 1909, XXVI, 126.

(266) § 144. Traffic in Sea Island Cotton Without License.—Traffic in long cotton, known as Sea Island cotton, in the seed, by purchase, barter or exchange, without license, as provided in Section (3315) of the Civil Code is absolutely prohibited; and any person who shall so traffic or attempt to traffic without such a license shall be guilty of a misdemeanor, and, on conviction, shall be punished for each offense by a fine of not more

than one hundred dollars, or by imprisonment not exceeding thirty days: *Provided,* That one-half of any such fine when collected shall go to the informer: *Provided,* The provisions of this Section do not apply to the Counties of Colleton and Beaufort, nor to Charleston County, except within the Township of James Island.

Crim. Code, '12, § 469; Crim. Code, '02, § 350; 1899, XXIII, 90; 1901, XXIII, 732.

(267) § 145. Unlawful to Sell Any Compound of Crushed Ear Corn.—It shall be unlawful to sell, offer or expose for sale, any mixed or compounded commercial feeding stuff containing as an ingredient crushed or ground ear corn. *Provided,* That nothing herein shall prevent the sale of crushed or ground ear corn by itself and not mixed with any other substance, but the crushed or ground ear corn when sold by itself is a concentrated commercial feeding stuff defined in Section (3498) of the Civil Code, and the sale thereof within this State shall be governed by the provisions of Sections (3497) to (3510), inclusive, of the Civil Code, and Sections (267) to (270) of this Criminal Code, and the rules and regulations prescribed by the Commissioner of Agriculture, Commerce and Industries.

Crim. Code, '12, § 480; 1910, XXVI, 613.

(268) § 146. Sale of Feed Stuffs.—Any manufacturer, importer, jobber, agent or dealer, who shall sell, offer or expose for sale or distribution in this State, any concentrated commercial feeding stuff, as defined in Section (3498) of the Civil Code, without complying with the requirements of Sections (3497) to (3510), inclusive, of the Civil Code, and Sections (267) to (270) of the Criminal Code, or who shall sell, or offer or expose for sale or distribution, any concentrated commercial feeding stuff which contain substantially a smaller percentage of crude protein or crude fat or carbohydrates, or a larger percentage of crude fiber than certified to be contained, or who shall mix or adulterate any concentrated commercial feeding stuffs with foreign, mineral or other substance or substances, such as rice chaff or hulls, ground or crushed corncobs, oat hulls or similar materials of little or no feeding value, or with substances injurious to the health of domestic animals, or who shall sell, offer or expose for sale, any concentrated commercial feeding stuff so mixed or adulterated, shall be guilty of a violation of this Section.

Crim. Code, '12, § 481; 1906, XXV, 101; 1910, XXVI, 613; 1920, XXXI, 853.

(269) § 147. Penalty for Sale Without Stamp.—Any manufacturer, importer, jobber, agent or dealer who shall sell, offer or expose for sale, or distribute in this State, any concentrated commercial feeding stuff without having attached thereto or furnishd therewith such tax stamps, as required by the provisions of Sections (3497) to (3510), inclusive, of the Civil Code, or who shall use the required tax stamps a second time to void the payment of the tonnage tax, or any manufacturer, importer, jobber, agent or dealer who shall counterfeit or use a counterfeit of such tax stamps, shall be guilty of a violation of the provisions of this Section.

Crim. Code, '12, § 482; 1906, XXV, 101; 1910, XXVI, 613.

(270) § 148. **Obstructing Inspector.**—Any manufacturer, importer, jobber or dealer who refuses to comply with the requirements of the provisions of Sections (3497) to (3510) of the Civil Code, or any manufacturer, importer, jobber, agent or dealer, or person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any chemist inspector or other authorized agent in the performance of his duty in connection with the provisions of said Sections of the Civil Code, shall be guilty of a violation of the provisions of this Section.

Crim. Code, '12, § 483; 1906, XXV, 101; 1910, XXVI, 613.

(271) § 149. **Fine for Violating Sections.**—Any manufacturer, importer, jobber, agent or dealer who shall violate any of the provisions of Sections (267) to (270), or the regulations adopted by the Commissioner of Agriculture, Commerce and Industries, upon conviction thereof, shall be fined not exceeding fifty dollars for the first offense nor more than two hundred dollars for each subsequent offense, and the proceeds from such fines shall be covered into the State Treasury for use of the department executing the provisions of Sections (3497) to (3510), inclusive of the Civil Code.

Crim. Code, '12, § 484; 1906, XXV, 101; 1910, XXVI, 613.

(272) § 150. **Certificate of Analyst Prima Facie Evidence.**—In all prosecutions in the Courts of this State arising under Sections (267) to (270), inclusive, and the rules and regulations made in accordance therewith, the certificate of the analyst or other officer making the analysis or examination, when duly sworn to and subscribed by such analyst or officer, shall be *prima facie* evidence of the facts therein certified.

Crim. Code, '12, § 485; 1906, XXV, 101; 1910, XXVI, 613.

(273) § 151. **Reports to Commissioner Confidential.**—No use shall be made in the reports of the Commissioner of Agriculture, Commerce and Industries of the names of individuals, firms or corporations supplying the information called for by Article XI, Chapter XIX, of the Civil Code, such information being deemed confidential and not for the purpose of disclosing any person's affairs; and any agent, inspector or employee of said Commissioner violating this provision shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars, or imprisonment in the county jail not to exceed six months.

Crim. Code, '12, § 486; 1909, XXVI, 16.

(274) § 152. **Penalty for Violating Rules of the State Crop Pest Commission.**—Any firm, corporation or person violating any of the rules of the State Crop Pest Commission shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than fifty ($50) dollars nor more than five hundred ($500) dollars, or imprisonment for not less than ten days nor more than six months, or both such fine and imprisonment at the discretion of the Court having jurisdiction.

1912, XXVII, 748.

(275) § 153. **Penalty for Interference With Agents of Crop Pest Commission.**—Any person who shall seek to prevent any inspection under

the direction of the State Crop Pest Commission by said Entomologist, Pathologist, deputies, assistants, or agents, or who shall otherwise interfere with the Entomologist, Pathologist, assistants, deputies, or agents, while in the performance of their duties, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than fifty ($50) dollars nor more than five hundred ($500) dollars, or imprisonment for not less than ten days, or both such fine and imprisonment at the discretion of the Court having jurisdiction.

1912, XXVII, 748.

(276) § 154. Traffic in Dead Bodies.—If any person sell or buy any such body, or in any way traffic in the same, or transmit or convey, or procure in order to be transmitted or conveyed, any such body to any place outside of this State, he shall be fined not exceeding two hundred dollars, or, in the discretion of the Court, be confined in jail not exceeding one year: *Provided*, That the Board may, in its discretion, on the application of any person, empower such person to import into this State and traffic in such anatomical material and pathological specimens as the Board may designate.

Civ. '12, § 934; 1909, XXVI, 166.

(277) § 155. Disobedience of State Veterinarian.—The State Veterinarian or any live stock inspector appointed by him is hereby authorized to give written notice to any person, firm or corporation owning, possessing or controlling any live stock which may be found infested or infected with, or exposed to, the carrier or carriers of infectious, contagious or communicable diseases, or any barns, sheds, yards or fields which are capable of conveying the said infection or contagion, to disinfect the same or have the same disinfected within five days from the service of such notice; and if any person, firm or corporation shall refuse or neglect for five days from the service of such notice to disinfect such animals, live stock, or premises in the manner and method and at such times that such written notice may specify, the said person, firm or corporation shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment for not less than ten nor more than thirty days in the County Jail, or upon the public works of the county in which such offense occurs: *Provided*, *however*, That there shall be no conviction, fine or imprisonment imposed upon any person under this Section unless it shall appear that all necessary medicines, or disinfectants shall have been furnished or offered free of charge and without any cost whatever to the owner or controller of live stock or property, at the same time or previous to the giving of the written notice.

1912, XXVII, 670; 1918, XXX, 826.

(278) § 156. Penalty for Practicing Architecture Without Certificate.—Any person practicing architecture in this State without a certificate of admission to practice, shall be guilty of a misdemeanor, and shall be subject to a fine of not exceeding one hundred ($100.00) dollars for

each and every day so practicing, and shall not be entitled to recover in the Courts of this State compensation for his or her services.

1917, XXX, 198.

(279) § 157. Acting as Public Accountant Without Registry Misdemeanor—P nalty.—Any person who shall violate any of the provisions of Sections (2886) to (2899), Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction in a Court of competent jurisdiction, shall be punished by a fine of not less than twenty-five dollars and not exceeding one hundred dollars, or by imprisonment not less than twenty days and not exceeding thirty days, and all fines thus received, one-fourth shall be paid to the party or parties furnishing proof necessary to convict, three-fourths to go to the common school fund in the county in which conviction takes place.

1915, XXIX, 157.

(280) § 158. Streams Ordered to Be Made Navigable not to Be Obstructed.—It shall not be lawful for any person to keep up or erect any dam, except as provided for by Section (3084), Civil Code, across any river which the Legislature has ordered to be made navigable, or for improving which the Legislature has made any appropriation, so as to obstruct the passage of boats or rafts of timber and lumber therein; and in case any dam, hereafter to be created, shall not be immediately taken down and opened, when required by the County Board of Commissioners, the same shall thenceforth be regarded and taken to be a public nuisance, and shall and may be abated as such; and the person erecting or keeping up the same shall, on conviction thereof, be fined at the discretion of the Court, in a sum not exceeding five hundred dollars, for the use of the navigation of the river where the said nuisance exists.

Civ. '12, § 2142; Civ. '02, § 1413; G. S. 1109; R. S. 1223; 1823, VI, 219.

(281) § 159. Penalty on Fertilizer Dealer Failing to Distribute Penalty.—Any dealer who received such fine, penalty or judgment, as provided in Section (3296), Civil Code, and who shall refuse so to distribute the proceeds thereof upon demand within thirty days after the receipt thereof, or any dealer who shall refuse or neglect to accept and distribute said penalties or judgment, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one hundred ($100.00) dollars, or imprisoned not exceeding ten days, or both, in the discretion of any Court of competent jurisdiction.

Civ. '12, §§ 2324, 2329; 1904, XXIV, 476; 1909, XXVI, 197; 1920, XXXI, 1150.

(282) § 160. Penalty for Warehouse Manager Not to Cancel Receipt.—Any manager, employee, agent or servant who shall deliver cotton from a warehouse under Article III, Chapter XXXV, Civil Code, without the production of the receipt therefor or who fails to mark such receipt "Canceled" on the delivery of the cotton shall be punished by a fine of not more than $5,000 or imprisonment not more than five years, or by both fine and imprisonment in the discretion of the Court.

1914, Sp. XXIX, 18.

(283) § 161. Warehouse Cotton Under Lien.—Any person who shall deposit or attempt to deposit cotton upon which a lien or mortgage exists, without notifying the manager of the warehouse, shall be punished by a fine and imprisonment for a period of not more than one year and a fine of not more than $1,000.

1914, Sp. XXIX, 18.

(284) § 162. Misdemeanor to Violate Law Covering Weights and Measures, Etc.—Any person or persons violating Chapter XXXVII, Civil Code, or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than five ($5) dollars nor more than fifty ($50) dollars for each offence.

1913, XXVIII, 201.

(285) § 163. Failure to Put Floodgate in Mill Dam.—Any person or persons ordered by the Board of County Commissioners to put in a floodgate in any mill dam under the provisions of Subdivision 4 of Section (3210), Civil Code, who shall fail to do so, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed one thousand dollars, or be imprisoned for not exceeding one year.

Civ. '12, 2265; Civ. '02, § 1488; G. S. 1183; R. S. 1279; 1881, XVII, 888; 1882, XVIII, 48; 1883, XVIII, 563; 1888, XX, 59; 1889, XX, 373; 1893, XXI, 481; 1896, XXII, 257.

(286) § 164. Penalty for Sale of Misbranded Feeds.—Any person, company, corporation, or agent that shall offer for sale or expose for sale any package or sample or any quantity of condimental, patented, proprietary or trade marked "stock or poultry tonic," "stock or poultry regulator," "stock or poultry conditioner," "stock or poultry remedy," or any similar preparation, regardless of the title under which it is sold, which has not been registered, but subsequently found by an analysis or examination made by or under the direction of the Commissioner of Agriculture, Commerce and Industries to violate any of the provisions of Article XI, Chapter XXXV, Civil Code, or to contain harmful or injurious substances, or to be labeled with false or misleading statements regarding the contents or curative properties of said "stock or poultry tonic," "stock or poultry regulator," "stock or poultry conditioner," "stock or poultry remedy," or any similar preparation, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in the sum of fifty ($50) dollars for the first offense and in the sum of one hundred ($100) dollars for each subsequent offense.

1914, XXVIII, 700.

(287) § 165. Sale, Etc., of Unregistered Disinfectants a Misdemeanor —Penalty.—Any person, company, corporation or agent that shall offer for sale or expose for sale any package or sample or any quantity of any commercial disinfectant, or any similar preparation, regardless of the title under which it is sold, which has not been registered, but subsequently found by an analysis or examintion made by or under the direction of the Commissioner of Agriculture, Commerce and Industries to violate any of the provisions of Article 12, Chapter XXXV, Civil Code, or to

contain harmful or injurious substances, or to be labeled with false or misleading statements regarding contents thereof, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in the sum of fifty ($50) dollars for the first offense and in the sum of one hundred ($100.00) dollars for each subsequent offense.

1919, XXXI, 114.

(288) § 166. Inducing Members of Co-operative Marketing Association to Violate Contract or Malicious Spreading of False Reports Concerning Association, a Misdemeanor—Penalties.—Any person or persons or any corporation whose officers or employees knowingly induce or attempt to induce any member or stockholder of an association organized under Sections (3403) to (3431), Civil Code, to breach his marketing contract with the association, or who maliciously and knowingly spreads false reports about the finances or management thereof shall be guilty of a misdemeanor and subject to a fine of not less than one hundred ($100.00) dollars and not more than one thousand ($1,000.00) dollars for such offense, and shall be liable to the association aggrieved in a civil suit in the penal sum of five hundred ($500.00) dollars for each offense.

1921, XXXII, 350.

(289) § 167. Penalty for Delivery of Cotton Without Cancellation of Receipt.—Any manager, employee, agent or servant who shall deliver cotton from a State warehouse without the production of the receipt therefor, or who fails to mark such a receipt "cancelled" on the delivery of cotton, shall be punished by fine of not more than five thousand ($5,000.00) dollars or imprisonment not more than five years, or both fine and imprisonment in the discretion of the Court.

1921, XXXII, 306.

(290) § 168. Penalty for Deposit of Cotton Under Lien Without Notification—Lien of Warehouse for Storage.—Any person who shall deposit or attempt to deposit cotton upon which a lien or mortgage exists, without notifying the manager of the warehouse, shall be punished by fine and imprisonment for a period of not more than one year and a fine of not more than one thousand ($1,000.00) dollars. *Provided*, That the warehouse shall have a lien for insurance and storage charges and other expenses incident to the storage of said cotton prior to all other liens except for the State and county taxes. Any person disposing of such cotton over which this prior lien exists shall be punished as now provided for by law for selling property over which lien exists.

1921, XXXII, 307.

(291) § 169. Penalty for Issue of Fraudulent Receipt.—The manager of any warehouse or any agent, employee or servant, who issues or aids in issuing a receipt for cotton, knowing that such cotton has not been actually placed in the warehouse under the control of the manager thereof, shall be punished for each offense by imprisonment in the State Penitentiary for a period of not less than one nor more than five years, or by a fine of not exceeding five thousand ($5,000.00) dollars.

1921, XXXII, 306.

(292) § 170. Issue of Duplicate Warehouse Receipt While Original Outstanding Punishable as Forgery—Indemnity Bond.—Any manager, employee or servant, who shall issue or aid in issuing a duplicate or additional receipt for cotton, knowing that the former receipt or any part therof is outstanding, shall be punished as in the laws of this State provided for forgery: *Provided,* That party applying for a duplicate upon the representation that the original has been lost or destroyed give to the State Warehouse Commissioner an indemnifying bond in the amount to fully cover any amount of loss or litigation that might result from the issuance of the same.

1921, XXXII, 306.

(293) § 171. Violation of Law as to Standard Containers and Grades or Interference With Inspector, a Misdemeanor.—Any person who violates any provisions of Sections (3569) to (3579), Civil Code, or of the rules and regulations made thereunder for carrying out its provisions, or fails or refuses to comply with any of the requirements thereof, or who wilfully interferes with agents or employees in the execution or on account of the execution, of his or their duties, shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under this Act shall be punished by a fine of not more than one hundred ($100.00) dollars or by imprisonment in the county jail for not more than thirty days, or both such fine and imprisonment, in the discretion of the Court.

1921, XXXII, 267.

(294) § 172. Erecting Lightning Rods, Without License a Misdemeanor—Penalty.—Any person violating the provisions of Section (3943), Civil Code, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one thousand ($1,000) dollars, or imprisonment for not more than one year, in the discretion of the presiding Judge.

1920, XXXI, 1022.

(295) § 173. Penalty for Unlawful Dealing in Junk.—Any person, firm or corporation violating the provisions of Article II, Chapter XLIV, Civil Code, shall be fined in a sum not exceeding one hundred ($100) dollars or imprisoned not exceeding thirty days.

1913, XXVIII, 209.

(296) § 174. Liability if Without License in Beaufort County.—Any person, firm or managing officer or officers of said corporation, doing business as aforesaid, without first taking out a license, shall be liable to a fine of one hundred dollars, or imprisonment for thirty days.

1913, XXVIII, 343.

(297) § 175. Misdemeanor to Violate Article as to Investment Companies.—Any person or persons who shall violate any of the provisions of Article V, Chapter XLVIII, Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars or shall be imprisoned in the county jail for not

more than one year, or both such fine and imprisonment, in the discretion of the Court.

1912, XXVII, 912; 1915, XXIX, 251.

(298) § 176. **Hotel, Etc., Inspection—Penalty for Obstruction of Same.**—All such towns and cities may, by ordinance, provide for the inspection of all such places by some competent person appointed by the Mayor or Intendant, and all persons, firms or corporations conducting or operating such places mentioned in Section (4389), Civil Code, shall at all times permit and allow inspections to be made of their premises by such inspectors, and any person, firm or corporation who shall refuse to allow such inspection, or who shall obstruct any officer whose duty it is to make such inspection, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to such penalties as such towns or cities may impose by ordinance, not exceeding a fine of one hundred dollars ($100.00) or imprisonment not exceeding thirty (30) days.

1917, XXX, 46.

(299) § 177. **Failure of Owner or Builder to Correct Defects a Misdemeanor—Penalties.**—If the owner or builder erecting any new building, upon notice from the Inspector, shall fail or refuse to comply with the terms of the notice by correcting the defects pointed out in such notice, as to make such building comply with the law as regards new buildings, he shall be guilty of a misdemeanor, and shall be fined not exceeding fifty dollars. Every twenty days during which any defect in the building is wilfully allowed to remain, after notice from the Inspector, shall constitute a separate and distinct offense.

1917, XXX, 77.

(300) § 178. **Removal of Notice a Misdemeanor—Penalty.**—If any person shall remove any notice which has been affixed to any building by the Inspector of any city or town, which notice shall state the dangerous character of the building, he shall be guilty of a misdemeanor, and be fined not less than ten nor more than fifty dollars for each offense.

1917, XXX, 77.

(301) § 179. **Penalty Where Owner of Unsafe Building Allows it to Remain Unremedied.**—If the owner of any building which has been condemned as unsafe and dangerous by any local Inspector, after being notified by the Inspector in writing of the unsafe and dangerous character of such building, shall permit the same to stand or continue in that condition, he shall forfeit and pay a fine of not less than five dollars nor more than twenty-five dollars for each day such building continues after such notice.

1917, XXX, 77.

(302) § 180. **Penalty of Street Car Company Failing to Heat Cars.**—Any street car company violating the provisions of Section 6 of Chapter LIV, Civil Code, shall be liable to a fine of not less than one hundred ($100.00) dollars nor more than five hundred ($500.00) dollars.

1914, XXVIII, 594; 1918, XXX, 822.

(303) § 181. Penalty on Interurban Company Failing to Heat Cars.—Any interurban railroad or interurban railway failing or refusing to comply with the provisions of Section 8, of Chapter LIV, Civil Code, shall be subject to a fine of not exceeding one hundred dollars for each day of such failure or refusal, to be recovered in any Court of competent jurisdiction; said fine shall be paid into the County Treasury of the county in which said action or suit is brought, to be applied to the public school fund of said county.

1918, XXX, 725; 1919, XXXI, 216.

(304) § 182. Duties of Conductors and Employees of Street Cars—Separation of Races—Police Power—Violation by Employees a Misdemeanor—Penalty.—Conductors or other employees of said car shall be required, and are hereby empowered, to assign all passengers on the car in their charge in the manner aforesaid, so as to separate the white and colored races as much as practical; and all conductors and other employees of said railway company shall have, and are hereby invested with, police power of a peace officer of this State to carry out said provisions, and for a violation of Sections 11, 12 or 13, of Chapter LIV, Civil Code, any such employees or officers shall be deemed guilty of a misdemeanor, and on conviction, be fined in the sum of not to exceed one hundred ($100.00) dollars, or imprisoned or sentenced to work on the county chaingang for a term not to exceed thirty days.

1919, XXXI, 143.

(305) § 183. Violation of Regulations by Passenger a Misdemeanor—Penalty—Proviso.—Any passenger or passengers refusing to be assigned to the seats or space in accordance with the regulations of Chapter LIV, Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in the sum of not exceeding one hundred ($100.00) dollars, or imprisoned or sentenced to work on the county chaingang for term not to exceed thirty days: *Provided, always,* That any person in immediate charge of any white child or children or any sick or infirm white person shall be permitted to ride with the said child or children or any sick or infirm white person in the portion of the car assigned to the use of white persons.

1919, XXXI, 143.

(306) § 184. Superintendent or Employee Failing to Enforce Separation of Races on Street Cars Subject to Penalty.—The superintendent of said company and any officer, agent or employee who shall fail or refuse to provide for and enforce separation of the races upon the cars of said company operating in this State shall pay a penalty not to exceed one hundred ($100.00) dollars, or be imprisoned or sentenced to work on the chaingang for a term not to exceed thirty days.

1919, XXXI, 143.

(307) § 185. Violation of Law as to Board of Conciliation.—Any person, firm or corporation violating the provisions of Chapter LXII, Civil Code, shall, upon conviction, be fined not less than twenty-five

($25.00) dollars nor more than one hundred ($100.00) dollars, or sentenced to not more than thirty (30) days upon the county chaingang.

1919, XXXI, 118.

(308) § 186. **Misdemeanor to Solicit Emigrants Without License—Who Are Emigrant Agents—Penalty.**—No person shall carry on the business of emigrant agent in this State without having first obtained a license therefor from the State Treasurer. The term "Emigrant Agent," as contemplated in this Section, shall be construed to mean any person engaged in hiring laborers or soliciting emigrants in this State to be employed beyond the limits of the same. Any person shall be entitled to a license, which shall be good for one year, upon payment into the State Treasury for the use of the State of five hundred dollars in each county in which he operates or solicits emigrants for each year so engaged. Any person doing business of an emigrant agent without having first obtained such license shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by fine not less than five hundred dollars, and not more than five thousand dollars, or may be imprisoned in the county jail not less than four months, or confined in the State prison, at hard labor not exceeding two years for each and every offense, within the discretion of the Court.

Crim. Code, '12, § 895; Crim. Code, '02, § 608; R. S. 488; 1891, XX, 1084; 1893, XXI, 429; 1898, XXII, 812.

Constitutionality sustained. State *v.* Napier, 63 S. C. 60, 41 S. E. 13.

(309) § 187. **Emigrant Agents to Obtain a License—Misdemeanor to Do Business of Emigrant Agent Without a License.**—No person shall carry on the business of an emigrant agent in this State without having first obtained a license therefor from the County Treasurer of each county in which he solicits emigrants. Any person shall be entitled to a license, which shall be good for one year, upon payment into the County Treasury, for the use of said county, two thousand dollars in each county in which he operates or solicits emigrants, for each year so engaged. Any person doing business of an emigrant agent, without having first obtained said license, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by fine, not less than one thousand dollars and not more than five thousand dollars, or may be imprisoned in the county jail or on the public works not less than four months, or confined in the State Prison, at hard labor, not exceeding two years for each and every offense, within the discretion of the Court.

"Emigrant Agent" Defined.—The term "Emigrant Agent," as contemplated in this Section, shall be construed to mean any person engaged in hiring laborers or soliciting emigrants in this State, to be employed beyond the limits of the same.

Crim. Code, '12, § 896; 1907, XXV, 543.

Constitutional—
State *v.* Reeves, 112 S. C. 383; 99 S. E. 841. Each hiring a separate transaction. *Ib.*
Use of papers found on defendant after arrest, as evidence. *Ib.*
Railroad agent hiring men for work outside State is an emigrant agent. fact of agency no defence. State *v.* Bates, 113 S. C. 129; 101 S. E. 651.

CHAPTER IV.

Offenses Against the Public Peace.

(310) § 1. Conspiracy Against Persons.—If any two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to injure, oppress, or violate the person or property of any citizen, because of his political opinion or his expression or exercise of the same, or shall attempt, by any means, measures, or acts, to hinder, prevent, or obstruct any citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States, or by the Constitution and laws of this State, such persons shall be deemed guilty of a felony, and, on conviction thereof, be fined not less than one hundred or more than two thousand dollars, or be imprisoned not less than six months or more than three years, or both, at the discretion of the Court; and shall thereafter be ineligible to, and disabled from, holding any office of honor, trust, or profit in this State.

Crim. Code, '12, § 320; Crim. Code, '02, § 233; G. S. 2567; R. S. 198; 1871, XIV, 560.

Indictment at common law for conspiracy. State *v.* Ameker, 73 S. C. 330, 53 S. E. 484.

(311) § 2. If Another Crime Committed, How Punished.—If in violating any of the provisions of Sections 1 and 4 of this Chapter, any other crime, misdemeanor, or felony shall be committed, the offender or offenders shall, on conviction thereof, be subjected to such punishment for the same as is attached to such crime, misdemeanor, and felony, by the existing laws of this State.

Crim. Code, '12, § 321; Crim. Code, '02, § 234; G. S. 2568; R. S. 199; 1871, XIV, 560.

(312) § 3. Sheriffs, Etc., to Execute Warrants, May Call Out Posse Comitatus.—It shall be the duty of all Sheriffs, Constables, and other officers who may be specially empowered, to obey and execute all warrants and other processes issued under the provisions of Sections 1 to 4, inclusive, of this Chapter, to them directed; and should any Sheriff, Constable, or other officer specially empowered, refuse to receive such warrant or other process, when tendered to him, or neglect or refuse to execute the same, he shall, on conviction thereof, be fined in the sum of five hundred dollars, to the use of the citizens deprived of the rights secured by the provisions of this Chapter, or be imprisoned in the county jail, in the discretion of the Court. And the better to enable the Sheriffs, Constables and other officers specially empowered to execute all such warrants and other processes as may be directed to them, they shall have authority to summon and call to their aid the bystanders or *posse comitatus* of the proper county; and all persons refusing to obey the summons or call of the officers thus empowered shall be deemed guilty of a misdemeanor, and, on conviction thereof, be punished. And such warrants and other processes shall run and be executed by said officers anywhere within the Circuit or county in which they are issued.

Crim. Code, '12, § 322; Crim. Code, '02, § 235; G. S. 2569; R. S. 200; 1871, XIV, 560.

(313) § 4. Penalty for Hindering Officers or Rescuing Prisoners.—Any person who shall hinder, prevent, or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of Sections 1 to 4, inclusive, of this Chapter, in arresting any person for whose apprehension such warrant or other process may have been issued, or shall rescue, or attempt to rescue, such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, or shall aid, abet, or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid, or shall harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for either of said offenses, be subject to a fine of not less than fifty nor more than one thousand dollars or imprisonment of not less than three months nor more than one year, or both, at the discretion of the Court having jurisdiction.

Crim. Code, '12, § 323; Crim. Code, '02, § 236; G. S. 2570; R. S. 201; 1871, XIV, 561.

(314) § 5. Persons Injured May Prosecute County for Damages.—Any citizen who shall be hindered, prevented, or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States, or by the Constitution and laws of this State, or shall be injured in his person or property because of his exercise of the same, may claim and prosecute the county in which the offense shall be committed for any damages he shall sustain thereby; and the said county shall be responsible for the payment of such damages as the Court may award, which shall be paid by the County Treasurer of such county on a warrant drawn by the County Commissioners thereof; which warrant shall be drawn by the County Commissioners as soon as a certified copy of the judgment roll is delivered to them for file in their office.

Crim. Code, '12, § 324; Crim. Code, '02, § 237; G. S. 2571; R. S. 202; 1871, XIV, 561.

(315) § 6. Owners of Buildings Destroyed Indemnified.—In all cases where any dwelling house, building, or any property, real or personal, shall be destroyed in consequence of any mob or riot, it shall be lawful for the person or persons owning or interested in such property to bring suits against the county in which such property was situated and being, for the recovery of such damages as he or they may have sustained by reason of the destruction thereof; and the amount which shall be recovered in said action shall be paid in the manner provided by Section 5 of this Chapter.

Crim. Code, '12, § 325; Crim. Code, '02, § 238; G. S. 2572; R. S. 203, 1871, XIV, 561.

(316) § 7. When Damages Cannot Be Recovered.—No person or persons shall be entitled to the recovery of such damages if it shall appear that the destruction of his or their property was caused by his or their illegal conduct, nor unless it shall appear that he or they, upon knowledge had of the intention or attempt to destroy his or their property, or to collect a mob for that purpose, and sufficient time intervening, gave notice

thereof to a Constable, Sheriff, or Magistrate of the county in which such property was situated and being; and it shall be the duty of such Constable, Sheriff or Magistrate, upon receipt of such notice, to take all legal means necessary for the protection of such property as is attacked, or threatened to be attacked; and if such Constable, Sheriff, or Magistrate, upon receipt of such notice, or upon knowledge of such intention or attempt to destroy such property, in any wise received, shall neglect or refuse to perform his duty in the premises, he or they so neglecting or refusing shall be liable for the damages done to such property, to be recovered by action, and shall also be deemed guilty of a misdemeanor in office, and, on conviction thereof, shall forfeit his commission.

Crim. Code, '12, § 326; Crim. Code, '02, § 239; G. S. 2573; R. S. 204; 1871, XIV, 561.

(317) § 8. Persons Injured May Sue Participants.—Nothing in the foregoing Sections of this Chapter shall be construed to prevent the person or persons whose property is so injured or destroyed from having and maintaining his or their action against all and every person and persons engaged or participating in said mob or riot, to recover full damages for any injury sustained: *Provided, however,* That no damages shall be recovered by the party against any of said rioters for the same injury for which compensation shall be made by the county.

Crim. Code, '12, § 327; Crim. Code, '02, § 240; G. S. 2574; R. S. 205; 1871, XIV, 562.

(318) § 9. County Commissioners May Prosecute Offenders.—It shall be lawful for the County Commissioners of the county against which damages shall be recovered under the provisions of this Chapter to bring suit or suits, in the name of the county, against any and all persons engaged or in any manner participating in said mob or riot, and against any Constable, Sheriff, Magistrate, or other officer charged with the maintenance of the public peace, who may be liable, by neglect of duty, to the provisions of this Chapter, for the recovery of all damages, costs, and expenses incurred by said county; and such suits shall not abate or fail by reason of too many or too few parties defendant being named therein.

Crim. Code, '12, § 328; Crim. Code, '02, § 241; G. S. 2575; R. S. 206; 1871, XIV, 562.

(319) § 10. Sheriffs, Etc., to Enforce Preceding Provisions.—Sheriffs, Constables and other officers in the several Circuits or counties vested with powers of arresting, imprisoning, and bailing offenders against the laws of this State, are hereby specially authorized and required to institute proceedings against all and every person and persons who shall violate the provisions of the preceding Sections of this Chapter, and cause him and them to be arrested, imprisoned, or bailed, as the case may require, for a trial before such Court as shall have jurisdiction of the offense.

Crim. Code, '12, § 329; Crim. Code, '02, § 242; G. S. 2576; R. S. 207; 1871, XIV, 566.

(320) § 11. Governor to Call Out Militia—When.—Whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the government of this State, it shall become impracticable, in the judgment of the Governor of the State, to enforce, by the ordinary course of judicial proceedings, the laws

of the State within any county or counties of the State, it shall be lawful for the Governor of the State to call forth the Militia of any or all the counties of the State, and employ such parts thereof as he may deem necessary to enforce the faithful execution of the laws, or to suppress such rebellion.

Crim. Code, '12, § 331; Crim. Code, '02, § 244; G. S. 2578; R. S. 209; 1868, XIV, 85.

(321) § 12. **Proclamation to Disperse.**—Whenever, in the judgment of the Governor, it may be necessary to use the military force hereby directed to be employed and called forth, the Governor shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time.

Crim. Code, '12, § 332; Crim. Code, '02, § 245; G. S. 2579; R. S. 210; 1868, XIV, 86.

(322) § 13. **Governor to Take Possession of Telegraph, Etc.—When**—The Governor of the State, when, in his judgment, the public safety may require it, is hereby authorized to take possession of any or all of the telegraph lines in the State, their offices and appurtenances; to take possession of any or all railroad lines in the State, their rolling stock, their offices, shops, buildings, and all their appendages and appurtenances; to prescribe rules and regulations for the holding, using, and maintaining of the aforesaid telegraph and railroad lines in the manner most conducive to the interest and safety of the government; to place under military control all the officers, agents and employees belonging to the telegraph and railroad lines thus taken possession of, so that they shall be considered a part of the military establishment of the State, subject to all the restrictions imposed by the rules and articles of war.

Crim. Code, '12, § 335; Crim. Code, '02, § 248; G. S. 2582; R. S. 213; 1868, XIV, 86.

(323) § 14. **Governor to Employ Sufficient Force.**—The Governor is authorized to employ as many persons as he may deem necessary and proper for the suppression of such insurrection, rebellion, or resistance to the laws; and for this purpose he may organize and use them in such manner as he may judge best for the public welfare.

Crim. Code, '12, § 336; Crim. Code, '02, § 249; G. S. 2583; R. S. 214; 1868, XIV, 86.

(324) § 15. **Prize Fighting Prohibited.**—It shall be unlawful for any person or persons to engage in prize fighting, or to be a second in a prize fight, within the limits of this State; and any person violating the provisions of this Section shall be punished by a fine not exceeding one thousand dollars, or imprisonment not exceeding three years, or both fine and imprisonment, in the discretion of the Court. Any person or persons, either upon their responsibility or as officers or agents of any club or association, who shall aid or abet by offer of a purse or money or other valuable inducement, or by letting or giving the use of a house or grounds, or who shall in any way whatsoever effect or cause a violation of this Section, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment not exceeding six months, or by a fine not exceeding two hundred dollars.

Crim. Code, '12, § 338; Crim. Code, '02, § 251; R. S. 216; 1893, XXI, 397; 1896, XXII, 224.

(325) § 16. **Shooting or Boisterous Conduct on Public Highways a Misdemeanor.**—Any person who shall, without just cause or excuse, or while under the influence, or feigning to be under the influence, of intoxicating liquors, engage in any boisterous conduct, or who shall, without just cause or excuse, discharge any gun, pistol, or other firearm while upon or within fifty yards of any public road or highway, except upon his own premises, shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine of not more than one hundred dollars, or be imprisoned for not more than thirty days.

Crim. Code, '12, § 339; Crim. Code, '02, § 252; 1899, XXIII, 97; 1900, XXIII, 449.

(326) § 17. **Slander and Libel.**—Any person who shall with malicious intent originate, utter or circulate, or publish, any false statement or matter concerning another, the effect of which shall tend to injure such person in his or her character or reputation, shall be deemed guilty of a misdemeanor, and, upon conviction therefor, be subject to punishment by fine not to exceed five thousand dollars, or by imprisonment for a term not exceeding one year, or by both fine and imprisonment, in the discretion of the Court: *Provided,* That nothing herein shall be construed to abridge any right any person may have by way of an action for damages for libel or slander, or libel under the existing law.

1912, XXVII, 775.

(327) § 18. **Public Disorderly Conduct.**—Any person or persons who shall be found on any highway or at any public place or public gathering in a grossly intoxicated condition or conducting himself or herself in a disorderly manner, or who shall use obscene or profane language, on any highway or at any public place or gathering or in hearing distance of any schoolhouse or church, shall be deemed guilty of a misdemeanor, and, upon conviction of either of said offenses, shall be fined not less than five dollars nor more than fifty dollars, or imprisoned not less than five days nor more than thirty days. All fines collected for any and all of the offenses enumerated in this Section shall be paid to the County Treasurer and become a part of the public school fund of such county.

Crim. Code, '12, § 394; Crim. Code, '02, § 299; 1894, XXI, 720; 1908, XXV, 1033; 1918, XXX, 694; 1916, XXIX, 703.

(328) § 19. **Authority of Deputy Sheriffs in Newberry County.**—Deputies, provided in Section (1934) Civil Code, shall have authority for any suspected freshly committed crime, whether upon view or upon prompt information or complaint, to arrest without warrant, and in pursuit of the criminal or suspected criminal, to enter houses or break and enter the same, whether in their own county or in an adjoining county, and they shall have the right and authority to summon the *posse comitatus* to assist in enforcing the laws and in arresting violators or suspected violators thereof; and any citizen who shall fail to respond and render assistance, when so summoned or called upon, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for thirty days, or by a fine of not less than thirty dollars nor more than one hundred dollars. When an arrest is made without warrant the person so arrested shall be forthwith carried before a Magis-

trate and a warrant of arrest procured and disposed of as the Magistrate shall direct.

1912, XXVII, 865.

(329) § 20. Right, Powers and Duties of Peace Officers for Industrial Corporations.—The said police officer or Deputy Sheriff provided in Section (1942), Civil Code, shall have, do and exercise all the rights, duties and powers prescribed by law for Constables or Magistrates, and such powers as are usually exercised by Marshals and Policemen of towns and cities, and shall also act as a conservator of the peace; shall take into custody and carry before the nearest Magistrate any person who may, in his view, engage in riotous conduct or violation of the peace, and refusing upon his command to desist therefrom; and shall also arrest any person who may, in his view, commit any felony or misdemeanor, and carry him before a Court of competent jurisdiction; and shall execute any and all criminal process from Magistrates' Courts, and shall have the power to call to his aid a *posse comitatus* to assist him in the discharge of his duties; and any person refusing to obey his summons shall be liable to indictment and prosecution as for a misdemeanor.

Civ. '12, § 1150; Civ. '02, § 834; 1899, XXIII, 75, § 1; Amd. 1898, XXII, 793.

(330) § 21. Powers of Deputy for Fairs, Parks or Places of Amusement.—The said Police Officer or Deputy Sheriff, as provided in Sections (2048) and (2052), Civil Code, shall have, do and exercise all the rights, duties and powers prescribed by law for Constables or Magistrates, and such powers as are usually exercised by Marshals and Policemen of towns and cities, and shall also act as conservator of the peace; shall take into custody and carry before the nearest Magistrate any person who may, in his view, engage in riotous conduct or violation of the peace, and refusing upon his command to desist therefrom; and shall also arrest any person who may, in his view, commit any felony or misdemeanor, and carry him before a Court of competent jurisdiction; and shall execute any and all criminal process from Magistrates' Courts, and shall have the power to call to his aid a *posse comitatus* to assist him in the discharge of his duties; and any person refusing to obey his summons shall be liable to indictment and prosecution as for a misdemeanor.

Civ. '12, § 1159; 1908, XXV, 1152.

(331) § 22. Failure to Assist Deputy in Spartanburg County.—The said Special Deputy shall have authority for any suspected freshly committed crime, whether upon view or upon prompt information or complaint, to arrest without warrant, and in pursuit of the criminal or suspected criminal, to enter houses or break and enter the same, whether in their own county or in an adjoining county, and they shall have the right and authority to summon the *posse comitatus* to assist in enforcing the laws and in arresting violators or suspected violators thereof, and any citizen who shall fail to respond and render assistance when so summoned, or called upon, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for thirty days, or by a fine of not less than thirty dollars.

1912, XXVII, 896.

CHAPTER V.

Offenses Against Public Justice.

(332) § 1. **Perjury and Subornation of Perjury.**—Whoever, either by the subornation, unlawful procurement, sinister persuasion or means of any other person, or by his own act, consent or agreement, shall wilfully and corruptly commit any manner of wilful perjury, by his deposition in any of the Courts of this State, or being examined *ad perpetuam rei memoriam,* and being thereof duly convicted, shall be fined in the sum of one hundred dollars, and shall suffer imprisonment by the space of six months, and the oath of such person shall not be received in any Court of record within this State.

Crim. Code, '12, § 340; Crim. Code, '02, § 253; G. S. 2531; R. S. 217; 5 Eliz., c. 9; 1712, II, 487.

Perjury consists in false swearing without any regard to the form of the oath. Patrick *v.* Smoke, 3 Strob. 152.

The false swearing must be wilful and corrupt. State *v.* Cockran, 1 Bail. 50.

It must relate to some fact material to the issue. State *v.* Hattaway, 2 N. & McC. 118; State *v.* Kennedy, 10 Rich. 152.

If done to mitigate sentence, it is perjury. State *v.* Keenan, 8 Rich. 456.

Perjury cannot be committed in giving evidence in a cause of which Court had no jurisdiction. State *v.* Jenkins, 26 S. C. 121, 1 S. E. 437.

Nor before arbritrators not having power to administer an oath. State *v.* McCroskey, 3 McC. 308. But it was assigned on oath before a Justice of the Peace, on investigation before arbitrators. State *v.* Stephenson, 4 McC. 165.

Not on oath for naturalization. State *v.* Helle, 2 Hill 290.

Defendant's mental condition a material fact. State *v.* Gaymon, 44 S. C. 333, 22 S. E. 305.

INDICTMENT—

Which charges that the oath was taken on the Gospels will not be sustained by proof that the oath was taken with uplifted hand. State *v.* Porter, 2 Hill 611.

Where it sufficiently charges a common law perjury, its conclusion against the Statute, etc., may be regarded as surplusage. State *v.* Kennedy, 10 Rich. 152.

Sufficient to allege that defendant was duly sworn. State *v.* Farrow, 10 Rich. 165.

Not defective in failing to allege that the proceeding before Magistrate was commenced by information under oath. State *v.* Byrd, 28 S. C. 18, 4 S. E. 793.

It need not allege that the matter sworn to was material to the issue. *Ib.*

EVIDENCE—

Testimony showing location of defendant, when it affects the issue, is material. State *v.* Byrd, 28 S. C. 18, 4 S. E. 793.

Two witnesses not necessary to disprove facts sworn to; but where there is only one, independent evidence ought to be adduced. State *v.* Heyward, 1 N. & McC. 546.

Same amount of testimony required to prove the facts sworn to as the falsity of the oath. State *v.* Howard, 4 McC. 159.

One who has been charged with crime by the oath of defendant is a competent witness. State *v.* McKennan, Harp. 302.

Prosecutor was a competent witness unless he had immediate interest in the record. State *v.* Farrow, 10 Rich. 165.

VERDICT—

Where it finds guilty of perjury before two persons, and the indictment charges it before one of them, the variance is fatal. State *v.* Mayson, 3 Brev. 284.

JUDGMENT—

Will be arrested when the words stated do not from the face of the indictment appear to be material. State *v.* Heyward, 1 N. & McC. 546.

(333) § 2. **Procuring Witness to Commit Perjury—Penalty—Person Incompetent to Testify Thereafter.**—Whoever shall unlawfully and corruptly procure any witness or witnesses by letters, rewards, promises, or by any other sinister and unlawful means whatsoever, to commit any wilful and corrupt perjury, in any matter or cause whatsoever, in suit and variance, by any writ, action, complaint, or information, in any wise touching or concerning any lands, tenements, or hereditaments, goods, chattels, debts, or damages, in any of the Courts of this State, or shall unlawfully and corruptly procure or suborn any witness or witnesses, which shall be sworn to testify in *perpetuam rei memoriam,* shall be fined in the sum of two hundred dollars, and shall be imprisoned for the space of six months, unless such fine shall be sooner paid, and thenceforth shall not be received as a witness in any Court of record within this State.

Crim. Code, '12, § 341; Crim. Code, '02, § 254; G. S. 2532; R. S. 218; 1712, II, 487.

Attorney at law disbarred for subornation of perjury. State *v.* Holding, 1 McC. 379.

(334) § 3. Disposition of Forfeiture.—The one moiety of the fine imposed by the preceding Sections of this Chapter shall be for the State, and the other moiety to such person as shall be grieved, hindered, or molested by reason of the offense or offenses before mentioned, that will sue for the same by action in any Court of competent jurisdiction.

Crim. Code., '12, § 342; Crim. Code, '02, § 255; G. S. 2533; R. S. 219; 5 Eliz., c. 9; 1712, II, 488.

(335) § 4. False Swearing Before Persons Authorized to Administer Oaths.—Whoever shall, wilfully and knowingly, swear falsely in taking any oath required by law, and administered by any person directed or permitted by law to administer such oath, shall be deemed guilty of perjury, and, on conviction, incur the pains and penalties of that offense.

Crim. Code, '12, § 343; Crim. Code, '02, § 256; G. S. 2534; R. S. 220; 1833, VI, 485.

This Section is broad enough to include, and does include, the offense of wilfully swearing falsely on an examination by the State Bank Examiner, as was specially provided by Act of 1896, XXII, 113, Criminal Code of 1902, § 209.

Such offense may be assigned for making false affidavit before one officer, charging another with a misdemeanor. State *v.* Cockran, 1 Bail. 501.

One cannot be tried for perjury for taking an oath falsely before an officer not qualified to administer it. State *v.* Heyward, 1 N. & McC. 546.

It cannot be assigned as perjury to make a false affidavit on application for naturalization, as to previous residence. State *v.* Helle, 2 Hill, 290.

It is not necessary to constitute the crime of perjury under this Section that the matter falsely sworn to should be material to the issue. It is sufficient if the oath was required by law, was administered by one authorized to do so, and was wilfully and knowingly false. State *v.* Byrd, 28 S. C. 18, 4 S. E. 793.

INDICTMENT—

Need not charge that the Court at which the oath was taken had jurisdiction of the subject matter. State *v.* Byrd, 28 S. C. 18, 4 S. E. 793.

(336) § 5. Additional Punishment for Perjury.—Besides the Punishment already to be inflicted by law for so great crimes, it shall and may be lawful for the Court or Judge before whom any person shall be convicted of wilful and corrupt perjury, or subornation of perjury, to order and send such person to the State Penitentiary, there to be kept to hard labor for any term or time not exceeding the term of seven years.

Crim. Code, '12, § 344; Crim. Code, '02, § 257; G. S. 2535; R. S. 221; 1736, III, 470.

(337) § 6. Giving or Offering Bribes to Officers.—Whoever corruptly gives, offers, or promises to any executive, legislative, or judicial officer, after his election or appointment, either before or after he is qualified or has taken his seat, any gift or gratuity whatever, with intent to influence his act or vote, opinion, decision, or judgment on any matter, question, cause, or proceeding, which may be pending or may by law come or be brought before him in his official capacity, shall be punshed by imprisonment in the State Penitentiary at hard labor not exceeding five years, or by fine not exceeding three thousand dollars, and imprisonment in jail not exceeding one year.

Crim. Code, '12, § 348; Crim. Code, '02, § 261; G. S. 2536; R. S. 225; 1869, XIV, 308.

(338) § 7. Acceptance of Bribes by Officers.—Every executive, legislative, or judicial officer, who corruptly accepts a gift or gratuity, or a promise to make a gift or to do an act beneficial to such an officer, under an agreement, or with an understanding that his vote, opinion, or judgment shall be given in any particular manner, or on any particular side of any question, cause, or proceeding, which is or may be by law brought before him in his official capacity, or that, in such capacity, he shall make

any particular nomination or appointment, shall forfeit his office, be forever disqualified to hold any public office, trust, or appointment under the laws of this State, and be punished by imprisonment in the State Penitentiary at hard labor not exceeding ten years, or by fine not exceeding five thousand dollars, and by imprisonment in jail not exceeding two years.

Crim. Code, '12, § 349; Crim. Code, '02, § 262; G. S. 2537; R. S. 226; 1869, XIV, 308.

IDICTMENT—
Against a member of Congress is not arrested by the privileges secured to Representatives by the Constitution of the United States. State *v.* Small, 11 S. C. 626.
No duplicity in charging in a count the corrupt acceptance of a gift and of the promise to make one. *Ib.*
Not defective for repugnancy, because it charges the corrupt acceptance of a bribe to vote for a question which was, and might be, by law, brought before the defendant as State Senator. *Ib.*
When charging a bribe to vote for a certain resolution, it is sufficient to designate it by its title only. *Ib.*
EVIDENCE—
Journals of the Senate are the highest legal proof of the pendency of a matter before that body at a particular time. State *v.* Smalls, 11 S. C. 262.
Where accomplice testified that the bribe was by bank check, it is competent to prove by the books of the same bank a credit to defendant for like amount two days after the bribery. *Ib.*

(339) § 8. Corrupting Jurors, Etc.—Whoever corrupts, or attempts to corrupt, any juror, arbitrator, umpire, or referee, by giving, offering, or promising any gift or gratuity whatever with intent to bias the opinion or influence the decision of such juror, arbitrator, umpire, or referee, in relation to any cause or matter pending in the Court, or before an inquest, or for the decision of which such arbitrator, umpire, or referee has been chosen or appointed, shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding five years, or by fine not exceeding one thousand dollars, and imprisonment in jail not exceeding one year.

Crim. Code, '12, § 350; Crim. Code, '02, § 263; G. S. 2538; R. S. 227; 1869, XIV, 309.

Whether party charged with this offense can be punished on rule to show cause, as for contempt. State *v.* Blackwell, 10 S. C. 35; *In re* Moore, 79 S. C. 399, 60 S. E. 947.
Demurrer to indictment for failure to state what constituted the gift or gratuity offered. State *v.* Maddox, 80 S. C. 452, 61 S. E. 964.
The Statute does not strictly apply to an attempt to exercise personal influence on juror, not connected with the offer of a gift or gratuity. The exercise of such influence is punishable as a contempt of Court. *In re* Moore, 79 S. C. 401, 60 S. E. 947.
Findings of fact in contempt proceedings cannot be reviewed on appeal. *Ib.*
As soon as one is designated by law as chosen to sit on a jury he comes within the terms of the Statute. State *v.* Maddox, 80 S. C. 454, 61 S. E. 964.

(340) § 9. Acceptance of Bribes by Jurors, Etc.—If any person summoned as a juror, or chosen or appointed as an arbitrator, umpire, or referee, corruptly receives any gift or gratuity whatever from a party to a suit, cause, or proceeding, for the trial or decision of which such juror has been summoned, or for the hearing or determination of which such arbitrator, umpire, or referee has been chosen or appointed, he shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding five years, or by fine not exceeding one thousand dollars, and imprisonment in jail not exceeding one year.

Crim. Code, '12, § 351; Crim. Code, '02, § 264; G. S. 2639; R. S. 228; 1869, XIV, 309.

(341) § 10. Bribery to Procure Office.—If any person shall, directly or indirectly, offer to give, or engage to pay any sum of money or other valuable consideration to another, in order to induce such other person to procure for him, by his interest, influence, or any other means whatsoever, any office or place of trust within this State, whether said office is to be obtained through any general, special, or primary election, or from any

elective tribunal, or shall offer, give, promise or bestow any reward by meat, drink, or otherwise, for the aforesaid purpose, and be thereof convicted, he shall forfeit the sum of not less than one nor more than five hundred dollars, and suffer imprisonment for a term not exceeding six months.

Crim. Code, '12, § 352; Crim. Code, '02, § 265; G. S. 2540; R. S. 229; 1824; VI, 244; 1905, XXIV, 940.

(342) § 11. Penalty for Accepting Bribes.—If any person shall receive of another any sum of money, or reward of meat, drink, or other valuable consideration, for procuring, or assisting to procure, any office or place of trust in this State, whether said office is to be obtained through any general, special or primary election, or from any elective tribunal, for any other person whatever and be convicted thereof, he shall forfeit the sum of not more than one hundred dollars, and suffer imprisonment at the discretion of the Court having cognizance of the same; and if such offender be in any office, he shall, on conviction, be disabled from holding the same.

Crim. Code, '12, § 353; Crim. Code, '02, § 266; G. S. 2541; R. S. 230; 1824, VI, 244.

(343) § 12. Informer Free From Arrest.—If either of the parties offending as aforesaid shall give information, upon oath, against the other offending party, and shall duly prosecute such information, such informer shall be free from the penalties aforesaid.

Crim. Code, '12, § 354; Crim. Code, '02, § 267; G. S. 2542; R. S. 231; 1824, VI, 244.

(344) § 13. Aiding Escapes From Prison and Rescuing Prisoners.—Whoever conveys into a jail, house of correction, State Penitentiary, house of reformation, or other like place of confinement, any disguise, instrument, tool, weapon, or other thing adapted or useful to aid a prisoner in making his escape, with intent to facilitate the escape of any prisoner there lawfuly committed or detained, or by any means whatever aids or assists such prisoner in his endeavor to escape therefrom, whether such escape is effected or attempted or not, and whoever forcibly rescues any prisoner held in custody upon any conviction or charge of offense, shall be punished by imprisonment in the State Penitentiary, at hard labor, not exceeding seven years; or, if the person whose escape or rescue was effected or intended was charged with an offense not capital, nor punishable by imprisonment, then by imprisonment in the State Penitentiary, at hard labor, not exceeding two years, or by fine not exceeding five hundred dollars.

Crim. Code, '12, § 355; Crim. Code, '02, § 268; G. S. 2543; R. S. 232; 1824, VI, 244.

Jointly assisting prisoners to escape; evidence. State *v.* Ballew, 83 S. C. 82, 63 S. E. 688, 64 S. E. 1019, 18 Am. & Eng. Ann. Cas. 569.

(345) § 14. Aiding Escape From Officers.—Whoever aids or assists a prisoner in escaping, or attempting to escape, from an officer or person who has the lawful custody of such prisoner, shall be punished by imprisonment in the State Penitentiary, at hard labor, not exceeding two years, or by fine not exceeding five hundred dollars.

Crim. Code, '12, § 356; Crim. Code, '02, § 269; G. S. 2544; R. S. 233; 1824, VI, 244.

(346) § 15. Jailer or Other Officer Wilfully Suffering Escapes.—If a jailer or other officer wilfully suffers a prisoner in his custody, upon

conviction or on any criminal charge to escape, he shall suffer the like punishment and penalties as the prisoner suffered to escape was sentenced to, or would be liable to suffer upon conviction of the crime or offense wherein he stood charged.

Crim. Code, '12, § 357; Crim. Code, '02, § 270; G. S. 2545; R. S. 234; 1824, VI, 244.

INDICTMENT—
Lay against two Magistrates, who admitted to bail one who was charged with murder. State *v.* Arthur,, 1 McM. 456.
Sufficient to set out that prisoner did escape in any words that express it. State *v.* Mayberry, 3 Strob. 144.
Not objectionable, because the Constable, who had not been formally appointed and qualified, was charged with negligence as a lawful Constable. *Ib.*

(347) § 16. Betting on Elections.—Whoever shall make any bet or wager of money, or wager of any other thing of value, or shall have any share or part in any bet or wager of money, or wager of any other thing of value, upon any election in this State, shall be deemed guilty of a misdemeanor, and, upon conviction in any Court of Sessions in this State, shall be fined in a sum not exceeding five hundred dollars, and be imprisoned not exceeding one month; one-half of the fine to go to the informer, and the other half to the use of the State.

Crim. Code, '12, § 358; Crim. Code, '02, § 271; G. S. 2546; R. S. 235; 1850; XII, 72.

(348) § 17. Voting More Than Once at Elections.—If any person qualified by the Constitution and laws of this State to vote at any election for the members of Congress of the United States, members of the Legislature of this State, Sheriff, Clerk, Judge of Probate, or any other county officer, Mayor and Aldermen of any city, Intendant and Wardens of any incorporated town, officers of the Militia or volunteer organizations of the State, or at any other election (whether general, special or primary) held within this State, shall vote more than once at such election, for the same office, such person so voting more than once, shall be fined and imprisoned, at the discretion of the Judge before whom the case shall be tried.

Crim. Code, '12, § 359; Crim. Code, '02, § 272; G. S. 2547; R. S. 236; 1858, XII, 731; 1905, XXIV, 940.

(349) § 18. Bribery at Elections.—If at any election hereafter held within this State, whether general, special or primary, for members of the Congress of the United States, members of the Legislature of this State, Sheriff, Clerk, Judge of Probate, or other county officer, Mayor and Aldermen of any city, Intendant and Wardens of any incorporated town, officers of the Militia or volunteer organizations of the State, or at any other election held within this State, any person shall, by the payment, delivery or promise of money, or other article of value, procure another to vote for or against any particular candidate or measure, the person so promising and the person so voting, shall each be guilty of a misdemeanor, and, upon conviction thereof, shall, for the first offense, be fined in any sum not less than one hundred dollars nor more than five hundred dollars, and imprisoned for any period of time not less than one month nor more than six months; and, for the second offense, shall be fined in any sum not less than five hundred dollars, nor more than five thousand dollars, and imprisoned for any period of time not less than three months nor more than twelve months.

Crim. Code, '12, § 360; Crim. Code, '02, § 273; G. S. 2548; R. S. 237; 1858, XII, 731; 1905, XXIV, 940.

(350) § 19. Offering to Procure Voters by Bribery.—If at any election, as in Section 17 of this Chapter, any person shall offer or propose to procure another, by the payment, delivery or promise of money, or other article of value, to vote for or against any particular candidate or measure, or shall offer or propose, for the consideration of money or other article of value paid, delivered or promised, to vote for or against any particular candidate or measure, such person so offering to procure or vote shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined and imprisoned, at the discretion of the Court.

Crim. Code, '12, § 361; Crim. Code, '02, § 274; G. S. 2549; 1858, XII, 731; 1905, XXIV, 942.

(351) § 20. Misdemeanor to Obtain Votes by Bribe or Threat.—At or before every political primary election held by any political party, organization or association, for the purpose of choosing candidates for office, or the election of delegates to conventions, in this State, any person who shall, by threats or any other form of intimidation, or by the payment, delivery, or promise of money, or other article of value, procure or offer, promise to endeavor to procure, another to vote for or against any particular candidate in such election, or who shall, for such consideration, offer to so vote, shall be guilty of a misdemeanor.

Crim. Code, '12, § 362; 1905, XXI, 949.

(352) § 21. Candidates to Make Pledge—Form—Failure Nullifies Election—Violation a Misdemeanor.—Every candidate offering for election, under the provisions of Section (351) shall make the following pledge and file the same with the Clerk of Court of Common Pleas for the county in which he is a candidate, unless he should be a candidate in more than one county, in which case he shall file same with the Secretary of State, before he shall enter upon his campaign, to wit: I, the undersigned ....., of the County of ....., and State of South Carolina, candidate for the office of....., hereby pledge that I will not give nor spend money, or use intoxicating liquors for the purpose of obtaining or influencing votes, and that I shall, at the conclusion of the campaign and before the primary election, render to the Clerk of Court (or Secretary of State as hereinbefore provided), under oath, an itemized statement of all moneys spent or provided by me during the campaign for campaign purposes up to that time, and I further pledge that I will, immediately after the primary election or elections that I am a candidate in, render an itemized statement, under oath, showing all further moneys spent or provided by me in said election: *Provided,* That a failure to comply with this provision shall render such election null and void, in so far as the candidate who fails to file the statement herein required, but shall not affect the validity of the election of any candidate complying with this Section: *And provided, further,* That such itemized statement and pledge shall be open to public inspection at all times. That any violation of the provisions of Sections (351) or (352) shall be a misdemeanor, and any person, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned at hard labor for

not less than one month nor more than six months, or both fine and imprisonment, in the discretion of the Court.

Crim. Code, '12, § 363; 1905, XXI, 949.

(353) § 22. **Drinking Within One Mile of Voting Precinct Unlawful.**—It shall be unlawful hereafter for any person to sell, barter or give away or treat any voter to any malt or intoxicating liquor within one mile of any voting precinct during any primary or other election day, under a penalty, upon conviction thereof, of not more than one hundred ($100) dollars, nor more than thirty (30) days imprisonment with labor.

Crim. Code, '12, § 366; 1904, XXIV, 417.

(354) § 23. **Abusing Voters, Etc.**—If any person shall, at any of the elections in any city, town, ward, or polling precinct, threaten, mistreat, or abuse any voter, with a view to control or intimidate him in the free exercise of his right of suffrage, such offender shall suffer fine and imprisonment, at the discretion of the Court.

Crim. Code, '12, § 367; Crim. Code, '02, § 275; G. S. 2550; R. S. 239; 1850, XII, 72.

(355) § 24. **Place of Trial—Informer's Share, Etc.**—All offenses against the provisions of Sections 10, 11, 12 and 23 of this Chapter, shall be heard, tried and determined before the Court of General Sessions, and the pecuniary penalties accruing thereby shall go, one-third to the informer, and the remainder to the State.

Crim. Code, ' 12, § 368; Crim. Code, '02, § 276; G. S. 2551; R. S. 240; 1858, XII, 731.

(356) § 25. **Assault, Etc., on Account of Political Opinions.**—Whoever shall assault or intimidate any citizen because of political opinions or the exercise of political rights and privileges guaranteed to every citizen of the United States by the Constitution and laws thereof, or by the Constitution and laws of this State, or, for such reason, discharge such citizen from employment or occupation, or eject such citizen from rented house or land or other property, such person shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than fifty nor more than one thousand dollars, or be imprisoned not less than three months or more than one year, or both, at the discretion of the Court.

Crim. Code, '12, § 369; Crim. Code, '02, § 277; G. S. 2552; R. S. 241; 1871, XIV, 560.

(357) § 26. **Perjury to Swear Falsely, Etc., by Voters—Fraudulent Actions in Party Primaries.**—Any voter who shall swear falsely at any primary election, in taking the prescribed oath, or shall personate another person and take the oath in his name, in order to vote, shall be guilty of perjury, and be punished, upon conviction, as for perjury. And any person who shall fraudulently procure the registration of a name or names on the party registration lists, or rolls, in violation of the party rules or otherwise; or who shall fraudulently offer or attempt to vote such name or names; or who shall fraudulently offer or attempt to vote in violation of the party rules and regulations; or under any false pretense as to any circumstances affecting his qualifications to vote; or who shall fraudulently aid, counsel or abet another in so doing, either as to said fraudulent registration or said fraudulent offer or attempt to vote, shall be deemed

guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred ($100) dollars, nor more than five hundred ($500) dollars, or be imprisoned for a period of not less than thirty (30) nor more than ninety (90) days, or both, at the discretion of the Court.

Crim. Code, '12, § 370; 1903, XXIV, 113.

(358) § 27. Punishment of Managers at Primary Election for Violating, Etc.—Any Manager at any primary election in this State, who shall be guilty of wilfully violating any of the duties devolved upon such position, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not to exceed one hundred dollars, or imprisonment not to exceed six months; and any Manager who shall be guilty of fraud or corruption in the management of such election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not to exceed five hundred dollars, or imprisonment for a term not to exceed twelve months, or both, in the discretion of the Court.

Crim. Code, '12, § 371; Crim. Code, '02, § 279; R. S. 243; 1888, XX, 10.

(359) § 28. Penalty on Messengers and Others for Defeating Due Delivery of Certificates.—If any of the messengers shall be guilty of destroying the certificates entrusted to their care, or wilfully doing any act that shall defeat the due delivery of them, he shall be punished by imprisonment in the Penitentiary, at hard labor, for a term not less than two nor exceeding four years; and if any person shall be found guilty of taking away from any of the said messengers, either by force or in any other manner, any such certificates entrusted to his care, or wilfully doing any act that shall defeat the due delivery thereof, he shall be punished by imprisonment in the Penitentiary, at hard labor, for not less than two nor exceeding four years.

Crim. Code, '12, § 373; Crim. Code, '02, § 281; G. S. 150; R. S. 245; 1888, XX, 10.

(360) § 29. Punishment for Neglect or Corrupt Conduct on Part of Officers or Messengers.—If any officer or messenger, on whom any duty is enjoined in this Chapter, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding one year.

Crim. Code, '12, § 374; Crim. Code, '02, § 282; G. S. 151; R. S. 246; 1888, XX, 10.

(361) § 30. Punishment for Violating Election Laws.—Every person who shall vote at any general, special, or municipal election, who is not entitled to vote and every person who shall by force, intimidation, deception, fraud, bribery, or undue influence, obtain, procure, or control the vote of any elector to be cast for any candidate or measure other than as intended or desired by such elector, or who shall violate any of the foregoing provisions in regard to elections, shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in jail not less than three months nor more than twelve months, or both, within the discretion of the Court.

Crim. Code, '12, § 375; Crim. Code, '02, § 283; G. S. 162; R. S. 247; 1888, XX, 10.

(362) § 31. Wilful Neglect of Duty or Corrupt Conduct a Misdemeanor.—If any of the Commissioners or Managers of Election, or any member of the State or County Board of Canvassers, or any member of the Board of Registration or Supervisor of Registration, or any officers on whom any duty is imposed by the election or registration laws, shall be guilty of any wilful neglect of the same, or of any corrupt conduct in executing the same, and be thereof convicted, he shall be deemd guilty of a misdemeanor, punishable by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding one year.

Crim. Code, '12, § 376; Crim. Code, '02, § 284; 1896, XXII, 223.

Davis *v.* State Board, 86 S. C. 451, 461, 68 S. E. 676.

(363) § 32. Improperly furnishing Registration Certificates a Misdemeanor.—Any member of the Boards of Registration, or any Supervisor of Registration, who shall prepare and furnish to voters, or permit to be prepared and furnished to voters, registration certificates at other times than the times at which the books of registration are to be opened according to law for that purpose, and shall be convicted thereof, shall be deemed guilty of a misdemeanor, and fined not more than five hundred dollars, or imprisonment at hard labor not more than one year.

Crim. Code, '12, § 377; Crim. Code, '02, § 285; 1896, XXII, 223.

(364) § 33. Receiving a Fraudulent Certificate a Misdemeanor.—Any elector knowingly receiving a registration issued in violation of the Registration Law of this State, or making use of the same, on conviction thereof, shall be deemed guilty of a misdemeanor, and fined not exceeding the sum of two hundred dollars, or imprisoned at hard labor not more than three months.

Crim. Code, '12, § 378; Crim. Code, '02, § 286; 1896, XXII, 223.

(365) § 34. Penalty for Serving Candidate for Money Consideration.—Any person who shall perform, or agree to perform, any service in the interest of any candidate for any office provided for in Article IX, Chapter LI, of the Civil Code, Volume III of the Code of Laws (whether in connection with the primary election nomination, or in connection with the municipal election, or in connection with the obtaining and filing of the petition required herein), in consideration of any money or other valuable thing or of future support in obtaining office, shall be punished by a fine not exceeding five hundred ($500) dollars, or imprisonment not exceeding one (1) year, and any candidate, or other person, who shall solicit or contract for, or otherwise seek or obtain, such services in the interest of or against the candidacy for Mayor or Councilman, or for or against any question that may be submitted to an election, or shall pay any money for said services or promise any valuable thing for such services, or to influence any elector in his vote, shall be punished in the same manner, and any person making false answers to any of the provisions of said Article relative to his qualifications to vote at any election herein provided for, any person wilfully voting, or offering to vote at such election when not qualified as herein provided, and any person knowingly procuring, aiding or abetting any violation of any of the provisions herein, shall be guilty of

a misdemeanor, and, upon conviction, shall be fined not exceeding five hundred ($500) dollars, or imprisoned not exceeding one (1) year, and all the other provisions of law now applying to bribery or corruption or other improper practices in connection with elections shall likewise apply to the elections herein referred to.

Crim. Code, '12, § 365; 1910, XXVI, 529.

(366) § 35. Serving Interest of Candidates for Office in Certain Cities, Etc., Prohibited.—Any person who shall perform, or agree to perform, any service in the interest of any candidate for any office provided for in Article VIII, Chapter LI, Civil Code, (whether in connection with the primary election nomination or in connection with the municipal election, or in connection with the obtaining and filing of the petition required herein), in consideration of any money or other valuable thing, or of future support in obtaining office, shall be punished by a fine not exceeding five hundred ($500) dollars, or imprisonment not exceeding one (1) year, and any candidate, or other person, who shall solicit or contract for, or otherwise seek or obtain, such services in the interest of or against a candidacy for Mayor or Councilman, or for or against any question that may be submitted to an election, or shall pay any money for said service or promise any valuable thing for such service, or to influence any elector in his vote, shall be punished in the same manner, and any person making false answers to any of the provisions of said Article relative to his qualifications to vote at any election herein provided for, any person wilfully voting or offering to vote at such election when not qualified as herein provided, and any person knowingly procuring, aiding or abetting any violation of any of the provisions herein, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding five hundred ($500) dollars, or imprisoned not exceeding one (1) year, and other provisions of law now applying to bribery or corruption or other improper practices in connection with elections shall likewise apply to the elections herein referred to.

1912, XXVII, 793.

(367) § 36. Violation of Law as to Primary Elections—Penalties.—Oaths.—Any person violating the provisions of Sections (285) to (299), Civil Code, other than swearing falsely, shall be guilty of a misdemeanor, and fined not over five hundred ($500) dollars, or imprisoned not over six (6) months, or both, at the discretion of the Court. Any person swearing falsely in any of the matters pertaining to primary elections shall be guilty of perjury and punished as now provided by law for perjury.

1915, XXIX, 174.

(368) § 37. Misdemeanor to Violate Election Law—Perjury—Penalty—Oaths Administered.—Any person violating the provisions of Sections (311) to (328), Civil Code, other than swearing falsely, shall be guilty of a misdemeanor and fined not over five hundred ($500.00) dollars or imprisoned not over six (6) months, or both, at the discretion of the Court. Any person swearing falsely in any of the matters pertaining to

primary elections shall be guilty of perjury, and punished as now provided by law for perjury.

1915, XXIX, 81.

(369) § 38. Wrongful Enrollment—Perjury—Prima Facie Evidence.—Every person enrolling himself who is not entitled to be enrolled, or who shall violate any of the provisions of Sections (311) to (326), Civil Code, shall be deemed guilty of perjury, and the production of the books of enrollment, showing the enrollment of any such person, shall be *prima facie* evidence that the person so enrolled has acted in violation of the provisions of law.

1915, XXIX, 81.

(370) § 39. Oath Administered by Officers of Reserve Militia—False Swearing Perjury.—Officers are authorized and empowered to administer oaths and affirmations in all matters pertaining to or concerning the South Carolina Reserve Militia. Any person who shall falsely swear or affirm to any oath or affirmation before any such officer shall be guilty of perjury, and upon trial and conviction thereof shall be sentenced for such offense as now provided by law for the crime of perjury.

1918, XXX, 874.

(371) § 40. Penalty for Embalming Body Where Crime is Suspected.—It shall be unlawful to embalm a dead human body when any fact within the knowledge, or brought to the attention of the embalmer is sufficient to arouse suspicion of crime in connection with the cause of death of the deceased, until the permission of the Coroner or of a Magistrate, if a Coroner be not accessible, shall have first been obtained. Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars nor more than one hundred dollars.

1912, XXVII, 752.

CHAPTER VI.

Offenses Against Chastity, Morality, Decency, Etc.

(372) § 1. Abducting a Maid Under Sixteen Years of Age.—Whoever, above the age of fourteen years, shall unlawfully take or convey, or cause to be taken or conveyed, any maid or woman-child unmarried, being within the age of sixteen years, out of or from the possession and against the will of the father or mother of such child, or out of or from the possession and against the will of such person or persons as then shall happen to have, by any lawful ways or means, the order, keeping, education, or governance of any such maiden or woman-child, shall, on conviction, suffer imprisonment for the space of two years, or else shall pay such fine as shall be adjudged by the Court.

Crim. Code, '12, § 379; Crim. Code, '02, § 287; G. S. 2585; R. S. 248; 4 and 5 P. & M., c. 8; 1712, II, 485.

INDICTMENT—

Must state that the defendant was above the age of fourteen years and that the person taken away was a maid or woman-child. State *v.* O'Bannon, 1 Bail. 144.

The defendant must be brought within all the material words of the Section. *Ib.*
Bad, if it charge disjunctively, that defendant "did take and convey *or* caused to be taken and carried away." *Ib.*
It may join two counts, one under this Section, and one under the following Section. State *v.* Tidwell, 5 Strob. 1.

(373) § 2. Abducting, Deflowering or Contracting Matrimony With Woman Under Sixteen Years.—Whoever shall so take away, or cause to be taken away, as aforesaid, and deflower any such maid or woman-child, as aforesaid or shall against the will, or unknowing of or to the father of any such maid or woman-child, if the father be in life, or against the will or unknowing of the mother of any such maid or woman-child (having the custody or governance of such child, if the father be dead), by secret letters, messages, or otherwise, contract matrimony with any such maid or woman-child, shall on conviction, suffer imprisonment for five years, or else shall pay such fine as shall be adjudged by the Court; one moiety of which fine shall be for the State, and the other moiety to the parties grieved.

Crim. Code, '12, § 380; Crim. Code, '02, § 288; G. S. 2586; R. S. 249; 4 and 5 P. & M., c. 8; 1712, II, 485.

Applied as a wise and salutary law for the protection of inexperienced females of all conditions. State *v.* Finlay, 2 Bay 418.
INDICTMENT—
May join count under this Section with a count under the preceding Section. State *v.* Tidwell, 5 Strob. 1.
VERDICT—
If general under such indictment of two counts, fixes the greater degree of guilt in this Section, as well upon him who marries the woman-child, as upon him who aided. State *v.* Tidwell, 5 Strob. 1.

(374) § 3. Bigamy.—Whoever, being married, and whose husband or wife has not remained continually for seven years beyond the sea, or continually absented himself or herself, the one from the other, for the space of seven years together, the one of them not knowing the other to be living within that time, or who were not married before the age of consent, or where neither husband nor wife is under sentence of imprisonment for life, or whose marriage has not been annulled by decree of a competent tribunal having jurisdiction both of the cause and the parties, shall marry another person, the former husband or wife being alive, shall, on conviction, be punished by imprisonment in the Penitentiary for not more than five years nor less than six months, or by imprisonment in the jail for six months, and by a fine of not less than five hundred dollars.

Crim. Code, '12, § 381; Crim. Code, '02, § 289; G. S. 2587; R. S. 250; 1 J. 1, c. 11, 1712, II, 508; 1874, XV, 603.

Applied against a nephew who had lawfully married his aunt and while she was alive married again. State *v.* Barefoot, 2 Rich. 209.
EVIDENCE—
Declarations of the prisoner that he had married the first wife, and proof of long cohabitation, sufficient to prove the first marriage. State *v.* Britton, 4 McC. 256; State *v.* Hilton, 3 Rich. 434.
Marriage of slaves prior to emancipation living together in 1865. 10 S. C. 500. Confession of paramour inadmissible. State *v.* Mims, 39 S. C. 557, 17 S. E. 850. Variance in name of paramour. *Ib.*
There is no presumption that a former marriage solemnized in due form was illegal at time of performance. Hallums *v.* Hallums, 74 S. C. 407, 54 S. E. 613.

(375) § 4. Adultery or Fornication.—Any man or woman who shall be guilty of the crime of adultery or fornication, shall be liable to indictment, and, on conviction, shall be severally punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment for not less than six months nor more than one year, or by both fine and imprisonment, at the discretion of the Court.

Crim. Code, '12, § 382; Crim. Code, '02, § 290; G. S. 2588; R. S. 251; 1880, XVII, 328.

Adultery not indictable at common law, and was not an indictable offense in this State in 1831. State *v.* Brunson, 2 Bail. 149.

Either party may be indicted separately. State *v.* Sauls, 70 S. C. 393, 50 S. E. 17.

Proof of marriage in prosecution for adultery. State *v.* Still, 68 S. C. 37, 46 S. E. 524, 102 Am. St. Rep. 657.

Jurisdiction depends on place where the crime is committed. State *v.* Williams, 84 S. C. 21, 65 S. E. 982.

(376) § 5. Adultery Defined.—Adultery is the living together and carnal intercourse with each other, or habitual carnal intercourse with each other without living together, of a man and woman, when either is lawfully married to some other person.

Crim. Code, '12, § 383; Crim. Code, '02, § 291; G. S. 2589; R. S. 252; 1880, XVII. 328.

Foreign divorce no defense. State *v.* Westmoreland, 76 S. C. 145; 56 S. E. 673, 8 L. R. A., N. S., 842.

(377) § 6. Fornication Defined.—Fornication is the living together and carnal intercourse with each other, or habitual carnal intercourse with each other without living together, of a man and woman, both being unmarried.

Crim. Code, '12, § 384; Crim. Code, '02, § 292; G. S. 2590; R. S. 253; 1880, XVII, 328.

"Habitual carnal intercourse" means more than occasional intercourse, but it is for the jury to say how frequent it must be to make it "habitual." State *v.* Carroll, 30 S. C. 85, 8 S. E. 433.

The words "without living together" are not elements in the offense of adultery, and may be omitted from indictment. *Ib.*

Prosecutions under municipal ordinances for keeping bawdy houses may be seen in State *v.* Sanders, 68 S. C. 192, 47 S. E. 55; Union *v.* Hampton, 83 S. C. 46, 64 S. E. 1017.

(378) § 7. Miscegenation—Punishment for—Penalty for Performing Ceremony.—It shall be unlawful for any white man to intermarry with any woman of either the Indian or negro races, or any mulatto, mestizo, or half breed, or for any white woman to intermarry with any person other than a white man, or for any mulatto, half-breed, Indian, negro or mestizo to intermarry with a white woman; and any such marriage, or attempted marriage, shall be utterly null and void and of none effect; and any person who shall violate this Section, or any one of the provisions thereof, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than five hundred dollars, or imprisonment for not less than twelve months, or both, in the discretion of the Court. Any clergyman, minister of the gospel, Magistrate, or other person authorized by law to perform the marriage ceremony, who shall knowingly and wilfully unite in the bonds of matrimony any persons of different races, as above prohibited, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to the same penalty or penalties as provided in this Section.

Crim. Code, '12, § 385; Crim. Code, '02, § 293; R. S. 517; G. S. 2032, 2033, 2034; 1879, XVII, 3; Const., Art. 2, § 6.

Cited in Glood *v.* News and Courier Co., 71 S. C. 112, 50 S. E., 4 Am. & Eng. Ann. Cas. 685.

(379) § 8. Marriage License.—It shall be unlawful for any person to contract matrimony within this State without first procuring a license as is hereinafter provided; and it shall likewise be unlawful for any one, whomsoever, to perform the marriage ceremony for any such persons without said persons first delivering to the party performing said marriage ceremony a license as is hereinafter provided, duly authorizing said persons to

contract matrimony. Any officer or person performing the marriage ceremony without the production of such license shall, on conviction thereof, be punished by a fine of not more than one hundred ($100) dollars nor less than twenty-five ($25) dollars, or imprisonment not more than thirty days nor less than ten.

Crim. Code, '12, § 386; 1911, XXVII, 131.

(380) § 9. **Buggery.**—Whoever shall commit the abominable crime of buggery, whether with mankind or with beast, shall, on conviction, be deemed guilty of felony, and shall be imprisoned in the Penitentiary for five years, and shall pay a fine of not less than five hundred dollars, or both, at the discretion of the Court.

Crim. Code, '12, § 387; Crim. Code, '02, § 294; G. S. 2591; R. S. 254; 25 H. 8, c. 1; II, 465.

(381) § 10.—**Incest—Prohibited Degrees—Punishment.**—Any person who shall have carnal intercourse with each other within the following degrees of relationship, to wit: A man with his mother, grandmother, daughter, granddaughter, stepmother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister; a woman with her father, grandfather, son, grandson, stepfather, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother, shall be deemed guilty of incest, and shall be punished by a fine of not less than five hundred dollars, or imprisonment not less than one year in the Penitentiary, or both such fine and imprisonment.

Crim. Code, ' 12, § 388; Crim. Code, '02, § 295; R. S. 258; 1884, XIX, 801.

State may show crime was committed seven years before date alleged in the indictment. State *v.* Reynolds, 48 S. C. 384, 26 S. E. 769. Wife may testify against husband. *Ib.*

Applies to relation of the half blood; does not apply to marriage contracted before enactment of Statute.

State *v.* Smith, 101 S. C. 293; 85 S. E. 958.

(382) § 11.—**Seduction Under Promise of Marriage.**—Any male person above the age of sixteen years who shall, by any means of deception and promise of marriage, seduce any unmarried woman in this State, shall upon conviction, be deemed guilty of a misdemeanor, and shall be fined or imprisoned, at the discretion of the Court; but no conviction shall be had under this Section on the uncorroborated testimony of the woman upon whom the seduction is charged; and no conviction shall be had if on trial it is proved that such woman was at the time of the alleged offense, lewd and unchaste: *Provided*, That if the defendant in any action brought hereunder shall contract marriage with such woman, either before or after the conviction, further proceedings hereunder shall be stayed.

Crim. Code, '12, § 389; 1905, XXIV, 937.

In a prosecution under this Section the chastity of the woman is presumed, and the burden of showing her to be lewd or unchaste, is on defendant. State *v.* Turner, 82 S. C. 279, 64 S. E. 424, 17 Am. & Eng. Ann. Cas. 88.

Marriage under *proviso* legal; State *v.* English, 101 S. C. 304; 85 S. E. 721.

Promise of marriage without intent to perform is a sufficient deception, State *v.* Whitaker, 103 S. C. 210; 87 S. E. 1001.

(383) § 12. Felony to Expose Person Indecently.—Any person who shall be guilty of wilful and malicious indecent exposure of his person on any street or highway, or in any place of resort, shall be guilty of a felony, and, on conviction, shall be punished by fine or imprisonment, or both, in the discretion of the Court.

Crim. Code, '12, § 390; 1906, XXV, 84.

(384) § 13. Penalty for Publishing, Etc., Obscene Books, Papers, Etc. —Punishment.—Whoever knowingly imports, prints, publishes, sells or distributes any book, pamphlet, ballad, printed paper or other thing containing obscene, indecent or improper print, picture, figure or description manifestly tending to the corruption of the morals of youth, or introduces into a family, school, or place of education, or brings, procures, receives, or has in his possession, any such book, pamphlet, printed paper, picture, or ballad, or other thing, either for the purpose of sale, exhibition, to aid in a circulation, or with intent to introduce the same into a family, school, or place of education, shall be punished by imprisonment not exceeding two years, or by a fine not exceeding one thousand dollars, or both, at the discretion of the Court.

Crim. Code, '12, § 391; Crim. Code, '02, § 296; R. S. 255; 1885, XIX, 334

(385) § 14. Exhibiting Indecent Pictures a Misdemeanor—Punishment.—Whoever posts or exhibits in any public place any advertisement, show bill, or other printed or written picture of an indecent or obscene character, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding two years, or by a fine not exceeding one thousand dollars, or both, in the discretion of the Court.

Crim. Code, '12, § 392; Crim. Code, '02, § 297; R. S. 256; 1885, XIX, 334.

(386) § 15. Cockfighting a Misdemeanor.—It shall be a misdemeanor for any person to engage in or be present at cockfighting in this State, and any person found guilty shall be fined not exceeding one hundred dollars, or imprisonment not exceeding thirty days.

Crim. Code, '12, § 393; Crim. Code, '02, § 298; R. S. 257; 1887, XIX, 801; 1917, XXX, 47.

(387) § 16. Misdemeanor to Give Negro Permanent Custody of White Child—Penalty.—It shall be unlawful for any parent, relative, or other white person in this State, having the control or custody of any white child, by right of guardianship, natural or acquired, or otherwise, to dispose of, give or surrender such white child permanently into the custody, control, maintenance, or support, of a negro. Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined or imprisoned, in the discretion of the presiding Judge: *Provided,* The provisions of this Section shall not be construed so as to prevent the offices of a negro in the family of any white person as a nurse.

Crim. Code, '12, § 395; 1910, XXVI, 702.

CHAPTER VII.

Offenses Against the Public Health.

(388) § 1. Penalty for Practicing Dentistry Without Proper Qualifications.—Any person who, for fee or reward, shall practice dentistry in violation of the laws of this State regulating the practice thereof, shall be liable to indictment, and, on conviction, shall be fined not less than fifty nor more than three hundred dollars, or be imprisoned at hard labor on the county chaingang for a period of not less than one month nor more than twelve months: *Provided,* That nothing in this Section shall be construed as to prevent any person from extracting teeth. All fines collected shall inure to the educational fund of the county where the offender resides.

Crim. Code, '12, § 399; Crim. Code, '02, § 301; G. S. 934; R. S. 261; 1875, XVI, 856; 1887, XIX, 788; 1899, XXIII, 97.

(389) § 2. Misdemeanor to Violate Provisions of Code as to Trained Nurses.—Any person violating any of the provisions of the Civil Code, Sections (2445) to (2452), in reference to trained nurses, or who shall wilfully make any false representations to the State Board of Medical Examiners in applying for a certificate or license to pursue the calling of a professional or trained nurse, or otherwise violate the provisions thereof, shall be guilty of a misdemeanor, and, upon conviction thereof, be punished by fine not exceeding two hundred dollars, or imprisonment not exceeding three months, or both, in the discretion of the Court.

Crim. Code, '12, § 397; 1910, XXVI, 569.

(390) § 3. Practice of Medicine Without License a Misdemeanor—Penalty.—It shall be unlawful for any person or persons to practice medicine or surgery, or any branch or specialty of the same, within the meaning of Article 2, Chapter XXIII, Civil Code, in this State who has failed to comply with the provisions of said Article, and anyone violating said provisions shall be deemed guilty of a misdemeanor, and for each offense, upon conviction by any Court of competent jurisdiction, shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for a period of not less than thirty nor more than ninety days, or both, at the discretion of the Court, and that each day of such violation shall constitute a separate offense. One-half of said fine to go to the informant and the other half to the State.

1920, XXXI, 1004.

See State *v.* Van Buren, 86 S. C. 297, 68 S. E. 568.

(391) § 4. Practice of Pharmacy Without License a Misdemeanor —Penalty.—Any person guilty of violating the provisions of any Section of Article 2, Chapter XXIII, Civil Code, shall be guilty of a misdemeanor, and, upon conviction thereof, shall, for a first offense, be punished by fine of twenty-five ($25.00) dollars or imprisonment for thirty (30) days, or both, within the discretion of the Court; and, upon a second conviction, shall be punished by a minimum fine of fifty ($50.00) dollars or imprisonment for sixty (60) days, or both, in the discretion of the

Court. All fines and fees collected shall be used for the enforcement of this Article.

1920, XXXI, 993.

(392) § 5. Practice of Optometry Without License a Misdemeanor—Penalty.—Any person who shall violate the provisions of Article 3, Chapter XXIII, Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction in a Court of competent jurisdiction, be punished by a fine of not less than twenty-five dollars and not exceeding one hundred dollars, or by imprisonment not less than twenty days and not exceeding thirty days, all fines thus received, one-fourth to be paid party or parties furnishing proof necessary to convict, three-fourths to go to the common schools fund in the county in which the conviction takes place.

1917, XXX, 1.

(393) § 6. Practice of Veterinary Without License a Misdemeanor—Penalty.—Any person practicing veterinary medicine and surgery in this State without a license as provided in Article 4, Chapter XXIII, Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than twenty-five or more than one hundred dollars, or be imprisoned for not less than ten days or more than thirty days, for each and every offense

1920, XXXI, 905.

(394) § 7. Practice as Embalmer Without License—Misdemeanor to Violate Law.—Any person who shall practice or hold himself or herself out as practicing embalming, without having complied with the provisions of Article 5, Chapter XXIII, Civil Code, shall be guilty of a misdemeanor, and, upon conviction thereof in any Court of competent jurisdiction, shall be sentenced to pay a fine of not less than five dollars nor more than one hundred dollars for each and every offense. All fines assessed for the violation of any of the provisions of said Article shall be paid into the public school fund of this State.

1912, XXVII, 752.

(395) § 8. Misdemeanor to Violate Rules of Board of Health—Proviso.—That any person, who shall, after notice, violate, disobey, refuse, omit or neglect to comply with any rule of the Executive Committee of the State Board of Health, made by it in pursuance of Article I, Chapter XXIII, Civil Code, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding the sum of one hundred dollars, or be imprisoned for thirty days: *Provided*, This Section shall not apply to any person until the rules of the State Board of Health are promulgated.

1912, XXVII, 744.

(396) § 9. Water Companies to Have Analysis of Water Made and Published—Fee—Inspection of Water Sheds.—Every water company, whether owned by private individuals or corporations, or by a municipality, shall have made, not less frequently than once in every three months, at

its own expense, by a chemist to be approved by the State Board of Health, a chemical analysis, and once every three months a bacteriological examination, at its own expense, by a biologist to be approved by the State Board of Health, of a sample of its water, drawn from a faucet used for drinking purposes, packed and shipped in accordance with the instructions to be furnished by the Secretary of the State Board of Health, and the result of such examination shall be verified by a statement under oath of the chemist or biologist making the same, and published at least once in a newspaper published in the town or city using said water, within ten days after receipt thereof. For carrying out the provisions of this Section, the State Board of Health is authorized and empowered to have the bacteriological examination made as hereinbefore provided for and to charge for the same the sum of five dollars for each examination. As a check and as a guarantee of the faithful performance of the requirements laid down in this Section, the State Board of Health shall make, or have made by its authorized agents, such inspections of the watersheds and such chemical and bacteriological examinations of the public water supplies of the State as may be deemed necessary to insure their purity. Should such inspections or examinations show condition or conditions dangerous to the public health, the Secretary of the State Board of Health shall notify the Mayor, the municipal health officer and the superintendent or manager of the waterworks at fault, and demand the immediate removal of said dangerous condition or conditions. If, at the end of thirty days after the service of said notice and demand, the said dangerous condition or conditions shall have not been removed, to the extent that due diligence could accomplish such removal, the said Secretary shall have printed in one or more of the local newspapers a plain statement of the facts for the information and protection of the citizens using the water: *Provided*, That nothing herein contained shall be construed to prohibit any municipality from imposing such additional tests and requirements as they may deem necessary, and the decision of the municipal authorities shall be supreme. Every water company, its managing officers and directors, and the Mayor and Aldermen of every city and town, who shall neglect or fail to comply with and carry out the provisions of this Section, shall be guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days for each and every offense.

Crim. Code, '12, § 404; 1907, XXV, 536.

(397) § 10. Sale of Cocaine Made a Misdemeanor.—Any person, firm or company who shall sell cocaine, except on the written prescription of a practicing physician to be used under the personal supervision of such physician, or any person who shall be found in possession of any cocaine, or any person who shall be found in possession of any compound or mixture thereof, except when the bottle, box or vessel containing said compound or mixture bears the name of the practicing physician prescribing it and the name of the druggist or pharmacist compounding or mixing it, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $500, or by imprisonment not exceeding two years, or both in the discretion of the Court, with or without hard labor: *Provided,* That nothing herein contained shall prevent the sale of

cocaine by wholesale druggists to the retail or wholesale druggist, nor the use of the same by any regular licensed dental practitioner in his own practice: *Provided,* That the unlawful possession by any person of cocaine, or any mixture, or combination thereof, shall be *prima facie* evidence of an intent to sell, give away, or otherwise, dispense same: *Provided,* That it shall be the duty of all boards of health in this State, whether State, county or municipal, to prosecute violators of this Section, or assist in the prosecution of same.

Crim. Code, '12, § 405; 1907, XXV, 541; 1911, XXVII, 143.

Indictment need not allege that defendant had possession wilfully and knowingly. State *v.* Freeland, 106 S. C. 220; 91 S. E. 3.

(398) § 11. Unlawful to Manufacture or Sell Impure Food or Drugs —Definitions.—It shall be unlawful for any person to manufacture or sell, or offer, for sale, any article of food or drug which is adulterated or misbranded, within the meaning of this Section, and any person who shall violate any of the provisions of this Section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding fifteen days for the first offense, and one hundred dollars, or thirty days imprisonment, for each subsequent offense. That the term "drug," as used in this Section, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary or United States Dispensatory, for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or other animals. The term "food," as used herein, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound. That for the purpose of this Section, an article shall be deemed to be adulterated:

When an Article Shall Be Deemed Adulterated.—In the case of drugs and flavoring extract:

If, when a drug or flavoring extract sold under or by a name recognized in the United States Pharmacopœia or National Formulary or United States Dispensatory, it differs from or does not conform to the standard of strength, quality, or purity, as determined by the test laid down in the United States Pharmacopœia, or National Formulary or United States Dispensatory official at the time of investigation.

In the Case of Confectionery.—In the case of confectionery:

If it contains terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt, or spirituous liquors, compound, or narcotic drug.

In the Case of Food.—In the case of food:

First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

Fifth. If it contain any added poisonous or other added deleterious ingredient, which may render such article injurious to health: *Provided,* That when in the preparation of food products for shipment they are preserved by any external application, applied in such a manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the covering or the package, the provisions of this Section shall be construed as applying only when said products are ready for consumption.

Sixth. If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

"Misbranded" Defined.—The term "misbranded," as used herein, shall apply to all drugs or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular and to any food or drug which is falsely branded as to the State, Territory or County in which it is manufactured or produced. That for the purposes of this Section, an article shall also be deemed to be misbranded:

In the Case of Drugs.—In the case of drugs:

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha, or beta encaine, chloroform, cannabis indica, chloral hydrate, acetanilide, or any derivative or preparation of any such substances contained therein: *Provided,* That the package contains more than two grains of opium, or more than one-quarter grain of morphine, or more than one-quarter grain of heroin, or more than ten grains of chloral hydrate in one fluid ounce, or, if a solid preparation, in one avoirdupois ounce: *Provided, further,* That nothing in this paragraph shall be construed to apply to the filling of written prescriptions, furnished by regular licensed practicing physicians, and kept on file by druggists as required by law, or as to such preparations as are specified and recognized by the United States Pharmacopœia or National Formulary or United States Dispensatory, which are in accordance therewith.

In the Case of Food.—In the case of food:

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Second. If it is labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta encaine, chloroform, cannabis indica, chloral hydrate, acetanilide, or any derivative or preparation of any such substances contained therein.

Third. If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

Fourth. If the package containing it, or its label, shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular: *Provided,* That an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

When Not Misbranded.—First. In the case of mixtures or compounds, which may be now, or from time to time hereafter, known as articles of food, under their own distinctive names, and not in imitation of, or offered for sale under, the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second. In the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale: *Provided,* That the term blend, as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only: *And provided, further,* That nothing in this Section shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods, which contain no unwholesome added ingredient, to disclose their trade formulas, except in so far as the provisions of this Section may require to secure freedom from adulteration or misbranding.

No Dealer to Be Prosecuted When He Produces a Guaranty From Manufacturer.—No dealer shall be prosecuted under the provisions of this Section when he can establish a guaranty, signed by the wholesaler, jobber, manufacturer or other party residing in the United States, from whom he purchases such articles, to the effect that the same is not adulterated or misbranded, within the meaning of this Section, designating it.

Department of Agriculture to Enforce.—For the purpose of carrying out the provisions of this Section, the Commissioner of Agriculture, and all inspectors and chemists employed under the Commercial Feed Stuffs Act, shall take cognizance of the interests of the public health, as it relates to the sale of food, drugs, spirituous, fermented and malt liquors, and the adulteration thereof, and make all necessary inquiries and inves-

tigations relating thereto and shall take such action in the Courts as provided for; that the Commissioner shall adopt such measures as he may deem necessary to facilitate the enforcement of this Section; and shall prepare in cooperation with the State Board of Health, and issue, when approved by the State Board of Health, rules and regulations with regard to the proper method of collecting and examining drugs and articles of food. The Commissioner and his assistants designated, shall also be charged with the enforcement of Sections (397), (399) and (401)-(408) of the Criminal Law Volume, Code of 1922, Volume II, and of such other regulations relating to food and drugs as the State Board of Health may issue under the authority of any other Act or Law.

Crim. Code, '12, § 406; 1904, XXIV, 531; 1907, XXV, 528; 1913, XXVIII, 35; 1917, XXX, 51.

(399) § 12. Selling Flesh of Animals Diseased or Injured at Time of Death.—Any person who shall knowingly sell, or expose for sale, the flesh of any animal which was diseased or seriously injured at the time of slaughtering, or which died a natural death, or which may be found dead from a cause or causes, unknown to such person, shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than five dollars nor more than one hundred dollars, or imprisoned not less than ten nor more than thirty days: *Provided,* That this Section shall not apply to the sale of the flesh of any animal which is accidentally killed, when the same is immediately prepared for market, and the seller informs the buyer of the time, place and nature of the death of such animal.

Crim. Code, '12, § 407; Crim. Code, '02, § 305; R. S. 265; 1883, XIX, 385; 1905, XXIV, 866.

(400) § 13. Obstruction of State Veterinarian.—It shall not be lawful for any person or persons to hinder or obstruct the State Veterinarian appointed under the provisions of Section (2840) of the Civil Code, or his assistant, in the enjoyment of the rights given by Section (2844) of the Civil Code, in the discharge of the duties prescribed by the next succeeding Section (2845) of said Code; and any person or persons violating the provisions of this Section, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding thirty days.

Crim. Code, '12, § 295; Crim. Code, '02, § 371; 1901, XXIII, 737.

(401) § 14. Sale of Milk, Butter and Cheese Regulated.—It shall not be lawful for any person or corporation or agent knowingly to sell or expose for sale, or deliver for domestic use, or to be converted into any product of human food whatsoever, any unclean, impure, unwholesome, adulterated or skimmed milk, or milk from which has been held back what is known as strippings, or milk taken from an animal having disease, sickness, ulcers, or abscesses: *Provided,* That this Section shall not prohibit the sale of buttermilk or of skimmed milk when sold as such. For the purposes of this Section, milk which is proven by any reliable test or analysis to contain less than three per centum of butter-fat and eight and one-half per cent of solids other than butter-fat, shall be regarded as skimmed milk. For the

purposes of this Section, every article, substance, or compound, other than produced wholly from pure milk, or cream from the same, made in semblance of butter or of cheese, and designed to be used as a substitute for butter or cheese made from pure milk or cream from the same, is hereby declared to be imitation butter or imitation cheese, as the case may be: *Provided,* The use of salt, rennet and harmless coloring matter for coloring the product of pure milk or cream shall not be construed to render such product an imitation.

Crim. Code, '12, § 411; Crim. Code, '02, § 308; 1896, XXII, 215.

(402) § 15. Coloring Matter in Substitutes for Butter or Cheese Prohibited.—No person shall coat, powder or color with annatto or any coloring matter whatever any substance designed to be used as a substitute for butter or for cheese, whereby such substance or product shall be caused to resemble butter or cheese, the product of pure milk or cream.

Crim. Code, '12, § 412; Crim. Code, '02, § 309; 1896, XXII, 215.

(403) § 16. Combinations of Certain Ingredients With Butter or Cheese Prohibited.—No person shall combine any animal fat or vegetable oil or other substance with butter or cheese, or combine with butter or cheese, or with animal fat or vegetable oil or combination of the two, or any other substance or substances whatever, any annatto or any other coloring matter for the purpose or with the effect of imparting thereto a yellow color, or any shade of yellow, or that such substance shall resemble genuine yellow butter or cheese, nor introduce any such coloring matter or any such substance into any of the ingredients of which such substitute may be composed: *Provided,* That nothing in this or the three preceding Sections shall be construed to prohibit the use of salt, rennet or harmless coloring matter for coloring the products of pure milk or cream from the same.

Crim. Code, '12, § 413; Crim. Code, '02, § 310; 1896, XXII, 215.

(404) § 17. Manufacture and Sale of Imitation Butter or Cheese Prohibited—When.—No person shall by himself, or employee, or agents, produce or manufacture, or sell, or keep for sale, or offer for sale, any imitation butter or imitation cheese made or compounded in violation of this or the four preceding Sections, whether such imitation shall have been made or produced in this State or elsewhere: *Provided,* That said Sections shall not be construed to prohibit the manufacture and sale of imitation butter or imitation cheese under the regulations hereinafter provided, not manufactured or colored as herein prohibited.

Crim. Code, '12, § 414; Crim. Code, '02, § 311; 1896, XXII, 215.

(405) § 18. Substitutes to Be So Marked.—Every person who lawfully manufactures any substance designed to be used as a substitute for butter or for cheese shall mark by branding, stamping or stenciling upon the top side of each tub, box or other vessel in which such substitute shall be kept, or in which it shall be removed from the place where produced, in a clear and durable manner, in the English language, the words, "substitute for butter," or "substitute for cheese," as the case may be, in printed letters in plain Roman type, each of which shall be not less than one inch in height and one-half inch in breadth.

Crim. Code, '12, § 415; Crim. Code, '02, § 312; 1896, XXII, 215.

(406) § 19. **Possession of Unmarked Imitations Prohibited.**—No person shall have in his possession or control any substance designed to be used as a substitute for butter or for cheese, unless the tub, box, or other vessel containing the same shall be clearly and durably marked as provided in Section (405): *Provided,* That this Section shall not apply to a person who has such imitation butter or imitation cheese in his possession for the actual consumption of himself or family.

Crim. Code, '12, § 416; Crim. Code, '02, § 313; 1896, XXII, 215.

(407) § 20. **Sale of Imitation Butter or Cheese Prohibited.**—No person, by himself, or agent or employee, shall sell or offer for sale any imitation butter or imitation cheese under the pretense that the same is genuine butter or genuine cheese.

Crim. Code, '12, § 417; Crim. Code, '02, § 314; 1896, XXII, 215.

(408) § 21. **Hotels and Restaurants Using Imitations to Advertise the Same.**—No keeper or proprietor of any hotel or restaurant, or other person having charge thereof, shall knowingly use, or serve therein, either as food or for cooking purposes, any imitation butter or cheese, as defined in Section (401), unless such keeper, proprietor or other person in charge of such place of entertainment shall keep constantly posted in a conspicuous place in the room or rooms, or other place or places where such imitations shall be served, so that the same may be easily seen and read by any person in such room or place, a white card, not less than ten by fourteen inches in size, on which shall be printed in the English language, in plain black Roman letters, not smaller than one inch in height and one-half inch in width, the words, "imitation butter used here," or "imitation cheese used here," as the case may be, and the cards shall not contain any other impressions than the words above prescribed.

Crim. Code, '12, § 418; Crim. Code, '02, § 315; 1896, XXII, 215.

(409) § 22. **Penalty—Certificate Prima Facie Evidence.**—Any person violating any provisions of Sections (401) to (408) shall be guilty of a misdemeanor, and may be proceeded against by any of the processes provided for misdemeanors, and may be tried by any Court having jurisdiction of misdemeanors in this State, and, upon conviction, shall be punished by a fine not to exceed one hundred ($100.00) dollars and not less than ten ($10.00) dollars. The sworn certificate or a certified official report of the chemist of the Department of Agriculture, Commerce and Industries of the analysis of a suspected sample shall be recognized in any and all Courts of this State as *prima facie* evidence of such analysis and of the composition and character of such sample.

Crim. Code, '12, § 419; Crim. Code, '02, §§ 316, 317; 1896, XXII, 215; 1917, XXX, 50.

(410) § 23. **Supplying Minors With Tobacco or Cigarettes Forbidden —Punishment—Disposition of Fine.**—It shall not be lawful for any person or persons, either by himself or themselves, to sell, furnish, give, or provide any minor or minors, under the age of eighteen years, with cigarettes, tobacco, or cigarette paper, or any substitute therefor. Any person or persons violating the provisions of the preceding Section, either in per-

son, by agent, or in any other way, shall be held and deemed guilty of a misdemeanor, and upon indictment and conviction therefor, shall be punished by a fine not exceeding one hundred dollars nor less than twenty-five dollars, or by imprisonment for a term of not more than one year nor less than two months, or both, in the discretion of the Court; one-half of the fine imposed to be paid to the informer of the offense, and the other half to be paid to the Treasurer of the county in which such conviction shall be had.

Crim. Code, '12, § 420; Crim. Code, '02, § 320; R. S. 267; 1889, XX, 321.

(411) § 24. Sixty Hours a Week in Cotton and Woolen Mill.—Ten hours a day or sixty hours a week: *Provided,* That the hours of a single day shall not exceed eleven hours, except for the purpose of making up lost time as hereinafter provided, shall constitute the hours for working all operatives and employees in cotton and woolen manufacturing establishments engaged in the manufacture of yarns, cloth, hosiery and other products for merchandise, except mechanics, engineers, firemen, watchmen, teamsters, yard employees and clerical force, and sixty (60) hours work per week shall be regarded as six full days and be paid for accordingly. All contracts for longer hours of work other than herein provided in said manufacturing establishments shall be, and the same are hereby, declared null and void; and any person that requires, permits or suffers any person to work a longer time than so stated, shall be deemed guilty of a misdemeanor in each and every instance, and, on conviction in a court of competent jurisdiction, shall be fined a sum of money not less than $25 nor more than $100, or imprisonment not exceeding thirty days: *Provided,* That nothing herein contained shall be construed as forbidding or preventing any such manufacturing company from making up lost time to the extent of sixty hours per annum, beginning from January 1 of each year current with the loss of time incurred, where such lost time has been caused by accident or other unavoidable cause: *Provided, further,* That such lost time shall be made up within three months after the lost time was incurred: *Provided, further,* That all manufacturing establishments subject to the provisions of this Section shall cause to be posted in a conspicuous place in every room where such persons are employed, a notice printed in plain type, stating the number of hours' work required of them on each day of the week, the exact time for commencing work in the morning, stopping at noon for dinner, commencing after dinner, and stopping at night; the form of such notice shall be approved by the Commissioner of Agriculture, Commerce and Industries: *Provided, further,* That should any manufacturer desire to make up any lost time caused by accident or unavoidable cause, to the extent allowed in this Section, he shall post in each room a typewritten notice, stating the exact time that will be made up, the exact time lost, when lost, and for what cause. A complete record of all lost time, and time made up by dates, in hours and minutes, shall be kept by the proper officer of the manufacturing establishment, and presented on demand of the factory inspector. Failure to comply with any requirements in this Section shall be deemed a violation of this Section.

Crim. Code, '12, § 421; Crim. Code, '02, § 321; R. S. 268; 1892, XXI, 91; 1907, XXV, 487; 1909, XXVI, 188; 1916, XXIX, 937.

(412) § 25. **Excessive Docking Prohibited—Penalty.**—That all regular hands working cotton and woolen mills in this State, whether working by the day, hank, piece or cut, upon absence from their said work, for any cause shall not be docked, nor have deducted from their regular wages, more than the said machine operated by them would have produced in the time of the absence of the said regular hand from his work, and all spare or extra hands that are employed to keep up or run the machine or machines operated by the regular hands, shall be paid full amount deducted from the regular hand's wages. Any person or corporation violating any of the provisions of this Section shall be fined not less than fifty ($50.00) dollars, and not more than one hundred ($100.00) dollars for each offense or be imprisoned for not less than ten (10) nor more than thirty days.

1916, XXIX, 937.

(413) § 26. **No Child Under Fourteen Years Permitted to Work in Factories.**—No child under the age of fourteen years shall be employed in any factory, mine, or textile establishment of this State.

Crim. Code, '12, § 422; 1903, XXIV, 113; 1911, XXVII, 29; 1916, XXIX, 655.

(414) § 27. **Hours of Labor for Children Limited.**—No child under the age of sixteen years shall be permitted to work between the hours of eight o'clock p. m. and six o'clock in the morning in any factory, mine or textile manufactory of this State: *Provided,* That children under the age of sixteen, whose employment is permissible under the provisions of this Chapter, may be permitted to work after the hours of eight p. m. in order to make up lost time which has occurred from some temporary shut down of the mill, on account of accident or breaking down in the machinery, which has caused loss of time: *Provided, however,* That under no circumstances shall a child below the age of sixteen work later than the hour of nine p. m.

Crim. Code, '12, § 423; 1911, XXVII, 29.

(415) § 28. **Misdemeanor for Violation of Provisions.**—Any owner, superintendent, manager or overseer of any factory, mine or textile manufacturing establishment, or any other person thereof or connected therewith, who shall knowingly employ any child contrary to the provisions of this Chapter, shall be guilty of a misdemeanor, and for every such offense shall, upon conviction thereof, be fined not less than ten dollars nor more than fifty dollars, or be imprisoned not longer than thirty days, at the discretion of the Court.

Crim. Code, '12, § 424; 1911, XXVII, 30.

(416) § 29. **Misdemeanor to Misrepresent Age of Child.**—Any parent, guardian or other person having under his or her control any child, who consents, suffers or permits the employment of his or her child or ward under the ages above provided, or who knowingly or wilfully misrepresents the age of such child or ward to any of the persons named in Section 28 of this Chapter, in order to obtain employment for such child or ward, shall be deemed guilty of a misdemeanor, and for every offense shall, upon conviction thereof, be fined not less than ten dollars nor more than fifty dollars, or be imprisoned not longer than thirty days, in the discretion of the Court.

Crim. Code, '12, § 425; 1911, XXVII, 30.

(417) § 30. Sworn Statements as to Children Under Sixteen Years Laboring in Certain Industries Required.—In the employment of any child under the age of sixteen years in any factory, mine or textile manufacturing establishment, the owner or superintendent of such factory, mine or textile manufacturing establishment shall require of the parent, guardian or person standing *in loco parentis* of such child, a sworn statement, made in duplicate, in which shall be recorded the name, birthplace, age and place of residence of every such child under sixteen years of age, the original of which statement shall be produced for inspection on the demand of the Commissioner of Agriculture, Commerce and Industries, or his agents or inspectors, and the duplicate of which shall be forwarded to the Commissioner at his office at Columbia; the Commissioner shall thereupon issue permit for employment. The Commissioner shall prescribe and furnish forms under registered number for these statements and duplicates, and shall prescribe regulations for the keeping of proper records of the children employed in the State under the laws of the State; and any person knowingly furnishing a false statement of the age of such child or children shall be guilty of a misdemeanor, and for every such offense shall, upon conviction, be fined not less than ten ($10.00) dollars nor more than fifty ($50.00) dollars, or be imprisoned not longer than thirty days, in the discretion of the Court. The Commissioner shall likewise prescribe proper forms and regulations for the employment of children provided for in any other Act, making such forms and regulations compatible with those provided for in this Section.

Crim. Code, '12, § 426; 1911, XXVII, 30; 1917, XXX, 170.

(418) § 31. Employment of Children in the Delivery of Goods and Messages, and in Theaters and Other Places of Amusement, Regulated—Misdemeanors.—1. In cities of five thousand inhabitants and over no child under fourteen years of age shall be employed, permitted or suffered to work as a messenger for any telegraph, telephone or messenger company in the distribution or delivery of goods or messages, nor shall any minor child or person under eighteen years of age be so employed, permitted or suffered to work before five o'clock in the morning or after ten o'clock in the evening any day.

2. It shall be the duty of the Commissioner of Agriculture, Commerce and Industries to see that the provisions of this Section are complied with. He, his agents or inspectors, shall have the right at any and all times to enter all buildings and parts thereof which are subject to the provisions of this Act and make investigations as to the employment of children. He, his agents or inspectors; are also authorized to institute prosecutions for violations of the provisions of this Section.

3. Every person, firm or corporation who shall wilfully impede the Commissioner, his agents or inspectors in the free and full performance of his duties shall be guilty of a misdemeanor, and, upon conviction of the same, shall be fined not less than ten nor more than fifty dollars, or be imprisoned not less than ten nor more than thirty days, in the discretion of the Court.

4. The Commissioner shall have power to send for persons or papers whenever in his opinion it is necessary, and he may examine witnesses

under oath, being duly qualified to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in the office of the Commissioner.

5. Any owner, superintendent, manager or overseer of any telegraph, telephone or messenger company, or office, of any theater, concert hall or place of amusement or any other person thereof or connected therewith, who shall knowingly employ any child or person contrary to the provisions of this Section shall be guilty of a misdemeanor, and for every offense shall, upon conviction thereof, be fined not less than ten nor more than fifty dollars, or be imprisoned not longer than thirty days, in the discretion of the Court.

6. Any parent, guardian or other person having under his or her control any child who covenants, suffers or permits the employment of his or her child or ward under the age above provided, or who knowingly or wilfully misrepresents the age of such child or ward to any of the persons named in Subsection 2 of this Section, in order to obtain employment for such child or ward, shall be deemed guilty of a misdemeanor, and for every such offense shall, upon conviction thereof, be fined not less than ten dollars nor more than fifty dollars, or be imprisoned not longer than thirty days, in the discretion of the Court.

1912, XXVII, 705.

(419) § 32. Children Forbidden to Do Certain Work.—It shall be the duty of each corporation or other employer to place in one or more conspicuous places in each room of the factory in which any children under fourteen years of age are employed, a notice or notices to the effect that said children are forbidden to clean any gears, cams or pulleys, or to clean in dangerous proximity thereto, while the same are in motion by aid of steam, water electricity or other mechanical power; and no such employer, or its officers, superintendents, overseers or agents shall knowingly or wilfully permit or consent to such children so cleaning the said moving parts; and any officer, superintendent, overseer or agent violating the provisions of this Section shall be punished by a fine of not less than fifty nor more than one hundred dollars for each offense.

Crim. Code, '12, § 427; 1909, XXVI, 18.

This Section makes such work unlawful. Newsom *v.* F. W. Poe Mfg. Co., 102 S. C. 77, 86 S. E. 195.

(420) § 33. Factories to Be Provided With Suitable Water-Closets.—Whoever violates the provisions of Section (947) of the Civil Code, in reference to water-closets in factories, shall be punished by a fine of not less than ten ($10) dollars nor more than thirty ($30) dollars.

Crim. Code, '12, § 428; 1909, XXVI, 17.

(421) § 34. Women in Mercantile Establishments to Be Provided With Seats.—It shall be the duty of all employers of females in any mercantile establishment, or any place where goods or wares or merchandise are offered for sale, to provide and maintain chairs or stools, or other suitable seats, for the use of such female employees, to the number of one seat for every three females employed, and to permit the use of such seats by

such employees, at reasonable times, to such an extent as may be requisite for the preservation of their health. And such employees shall be permitted to use same, as above set forth, in front of the counter, table, desk, or any fixture when the female employee for the use of whom said seat shall be kept and maintained is principally engaged in front of said counter, table, desk or fixture; and behind such counter, table desk, or fixture, when the female employee, for the use of whom said seat shall be kept and maintained, is principally engaged behind said counter, table, desk, or fixture. Any person who violates or omits to comply with any of the foregoing provisions of this Section, or who suffers or permits any woman to stand, in violation of its provisions, shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars for each offense. The Commissioner of Agriculture, Commerce and Industries and the State Factory Inspectors are hereby charged with the enforcement of the provisions of this law, and said Commissioner is hereby empowered, from time to time whenever he may deem it necessary, to employ female inspectors for the purpose of collecting evidence. The sum of $300.00, if so much be necessary, shall annually be appropriated for the purpose of compensating such female inspectors.

Crim. Code, '12, § 429; Crim. Code, '02, § 333; 1899, XXIII, 100; 1911, XXVII, 151.

(422) § 35. Hours of Labor of Women in Mercantile Establishments. —The hours of labor of women in mercantile establishments in this State shall be limited to sixty hours per week, not to exceed twelve hours in any one day, and such females shall not be allowed to work later than the hour of ten o'clock p. m. The enforcement of this law is placed in the hands of the Commissioner, or Inspectors, or duly authorized agents of the Commissioner. Any employer or employers of female labor in mercantile establishments who shall violate the provisions of this Section shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than $10.00 nor more than $40.00, or imprisonment of not less than ten days nor exceeding thirty days.

Crim. Code, '12, § 430; 1911, XXVII, 142; 1914, XXVIII, 480.

(423) § 36. Hours of Labor of Employees of Street Railways.—No incorporated horse railway company, electric railway company, or other street railway company, and no officer, agent or servant of such corporation, and no person or persons or firm or joint stock company owning or operating any line or lines of horse railways, electric railways or other street railways within the limits of this State, and no agent or servant of such firm, joint stock company, person or persons, shall require, permit or suffer its, his or their conductors, motormen, or drivers, or other such employees, or any of them, in its, his, or their service, or under its, his, or their control, to work more than twelve hours during each day or any day of twenty-four hours, and shall make no contract or agreement with such employees, or any of them, providing that they or he shall work for more than twelve hours during each day of any day of twenty-four hours. If any corporation, or any officer, agent or servant of such corporation, or any person or persons, or any firm or joint stock company, managing or con-

ducting any horse railway, electric railway or other street railway in this State, or any agent or servant of such person or persons, firm or joint stock company, shall do any act in violation of the provisions of this Section, it, he or they shall be deemed to have been guilty of a misdemeanor, and shall, on conviction thereof in a Court of competent jurisdiction, be fined one hundred dollars for each offense so committed: *Provided, however,* That in cases of accident or unavoidable delay extra labor may be permitted for extra compensation: *Provided,* The employees of the said corporations of the City of Columbia, if they so desire, may work more than twelve hours daily, conditioned that they receive extra compensation for all work done over eleven hours.

Crim. Code, '12, § 431; Crim. Code, '02, § 322; 1897, XXII, 469.

(424) § 37. Hours of Labor of Employees of Interurban Railroads or Railways.—1. It shall be unlawful for any interurban railroad or interurban railway in this State to require any employee to labor for more than ten hours in each twenty-four hours of the day: *Provided,* That the provisions of this Section shall not apply in case of accidents or unavoidable delays. That the provisions of this Section shall not apply to any interurban railroads, operating over forty miles in length.

2. Interurban Railways Defined.—For the purposes of this Section the phrases "interurban railroad" and "interurban railway" shall be construed to include all railroads and railways operated by electricity whose main business consists in the transportation of passengers or freight from one municipality to another.

3. Penalty.—Any firm, person or corporation violating the provisions of this Section shall be guilty of a misdemeanor, and for each offense, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

1916, XXIX, 934.

(425) § 38. Misdemeanor to Violate Quarantine Regulations.—All masters of vessels, or other persons, violating the provisions of the quarantine laws of this State, or disobeying any of the published regulations of the health authorities of any port, and all persons whosoever, who shall, without permission of said authorities, invade the quarantine grounds or station of such port, or who shall hold any communication, or attempt to hold any communication, with any vessel, or any officer, or any passenger, or member of the crew of any vessel lying at the quarantine, or under control of the said authorities, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding two thousand dollars, or by imprisonment not exceeding twelve months, or both, in the discretion of the Court.

Crim. Code, '12 § 432; Crim. Code, '02, § 323; G. S. 969; R. S. 269; 1881, XVII, 597.

(426) § 39. Masters of Vessels Neglecting or Refusing to Obey Certain Regulations—Penalty.—Every master of a vessel subject to quarantine or visitation of the Health Officer, arrived in any of the ports of this State, who shall refuse or neglect to proceed with and anchor his vessel at the place assigned for quarantine; or to submit his vessel, cargo

and passengers to the examination of the Health Officer, and to furnish all necessary information to enable that officer to determine to what length of quarantine and other regulations they ought, respectively to be subject; or to remain with his vessel at quarantine during the period assigned for the quarantine, and while at quarantine to comply with the directions and regulations prescribed by law, shall be guilty of a misdemeanor, and be punished by fine not exceeding two thousand dollars, or by imprisonment not exceeding twelve months, or by both such fine and imprisonment.

Crim. Code, '12, § 433; Crim. Code, '02, § 324; G. S. 974; R. S. 270; 1868, XIV, 116.

(427) § 40. Masters of Vessels Giving False Information to Pilots, Etc.—If a master of any vessel hailed by a pilot shall give false information to such pilot relative to the condition of his vessel, crew, or passengers, or of the health of the places from whence he came, or refuse to give such information as shall be lawfully required; or land any person from his vessel, or permit any person except a pilot to come on board of his vessel; or unload or tranship any portion of his cargo before his vessel shall have been visited and examined by the Health Officer; or shall approach with his vessel nearer to the wharves of any port in this State than to the place of quarantine to which they may be directed, shall be guilty of a like offense, and subject to the like punishment, as in the preceding Section.

Crim. Code, '12, § 434; Crim. Code, '02, § 325; G. S. 975; R. S. 271; 1868, XIV, 117.

(428) § 41. Penalty for Landing Vessel or Unloading, Etc.—Any person who shall land from any vessel, or unload or tranship any portion of her cargo, under the circumstances of the preceding Section, shall be guilty of a like offense and subject to a like punishment.

Crim. Code, '12, § 435; Crim. Code, '02, § 326; G. S. 975; R. S. 272; 1868, XIV, 117.

(429) § 42. Penalty for Violating Quarantine Laws or Disobeying Health Officers.—Any person who shall violate the provisions of the quarantine laws of this State, or neglect or refuse to comply with the directions or regulations which any of the Health Officers may prescribe, shall be guilty of the like offense, and be subject for each offense to the like punishment.

Crim. Code, '12, § 436; Crim. Code, '02, § 327; G. S. 976; R. S. 273; 1868, XIV, 117.

(430) § 43. Penalty for Pilot or Other Person for Violating the Law.—Every pilot or other person who shall bring, or attempt to bring, or cause to be brought, into any port of this State any vessel, or the whole or any part of the crew, passengers or cargo, beyond the places appointed for her examination, without such vessel being examined according to law, shall forfeit and pay, the one-half to the use of the State and the other half to use of such person as shall sue for the same, the sum of five hundred dollars; and the pilot shall, moreover, be deprived of his branch as a pilot: *Provided,* That nothing herein contained shall apply to persons who may be shipwrecked.

Crim. Code, '12, § 437; Crim. Code, '02, § 328; G. S. 979; R. S. 274; 1784, IV, 615; 1809, V, 598; 1832, VI, 473.

(431) § 44. Fines and Forfeitures—How Recovered.—All fines and forfeitures and penalties provided by the laws of the State for the violation of the quarantine laws, or disobedience of the orders of the Governor establishing quarantine regulations, shall be recovered by indictment in a Court of General Sessions; and all persons offending against the same, upon conviction, shall be liable to imprisonment not exceeding twelve months, in addition to such fines, forfeitures and penalties.

Crim. Code, '12, § 438; Crim. Code, '02, § 329; G. S. 983; R. S. 275; 1832, VI, 473.

(432) § 45. Misdemeanor to Maintain Dry Wells in Towns of More Than Five Hundred Inhabitants.—It shall be a misdemeanor for any person to keep or maintain or use a dry well or other wells or privy vaults into which sewerage matter is discharged or received in any city, town or village having a population of not less than 500, whether incorporated or unincorporated, where such city, town, or village has no public general supply of water for personal and domestic uses. Any person who now has or maintains any such well for the discharge or reception of sewerage matter shall, upon fifteen days notice from any Magistrate that complaint thereof has been made, close up such well and discontinue its use entirely. Any person found guilty of violating this Section shall be fined not exceeding one hundred dollars, or imprisonment not exceeding thirty days: *Provided,* That the County of Dorchester shall be exempted from the operations of this Section: *Provided, further,* That the Town Council of any incorporated town in Dorchester County shall have the power and authority under their corporate seal to ordain and establish all such rules and by-laws and ordinances respecting the use of wells for sewerage purposes in said town as they may deem expedient and proper.

Crim. Code, '12, § 442; 1908, XXV, 1117; 1910, XXVI, 630.

(433) § 46. Infants With Diseased Eyes to Be Reported.—Should one or both eyes of an infant become reddened or inflamed at any time after birth, it shall be the duty of the midwife or nurse or person having charge of said infant to report the condition of the eyes at once to the local Board of Health of the city or town in which the parents of the infant reside. Any failure to comply with the provisions of this Section shall be punishable by a fine not to exceed twenty-five dollars, or imprisonment not to exceed one month, or both. This Section shall not apply to towns or cities of less than one thousand inhabitants.

Crim. Code, '12, § 443; Crim. Code, '02, § 331; 1896, XXII, 225.

(434) § 47. Swine Dying From Natural Causes to Be Buried—Punishment for Violations.—Whenever any swine shall die from any natural cause whatever, the owner or owners of such dead swine, upon notice thereof, shall immediately burn or bury, or cause to be burned or buried, such dead swine, and when buried it shall be put not less than three feet under the ground. The owner or owners of any dead swine, who shall violate the provisions of this Section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum of not more than ten dollars nor less than five dollars, or be imprisoned for a period of not more than thirty days.

Crim. Code, '12, § 444; Crim. Code, '02, § 332; 1900, XXII, 447.

(435) § 48. **Obstruction of, or Injury to, Drains in Charleston County.**—Any and all persons who shall injure, obstruct or otherwise interfere with any of the drainage canals, drains, ditches, trunks, culverts or other works for drainage purposes, opened or maintained by the Sanitary and Drainage Commission of Charleston County, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or be sentenced to work at hard labor on the chaingang of said county for not more than thirty days.

Crim. Code, '12, § 445; Crim. Code, '02, § 334; 1901, XXIII, 809; 1907, XXV, 527.

(436) § 49. **Misdemeanor for Physicians or Surgeons, Under Influence of Whiskey or Drugs, to Attend Patient—Penalty.**—Any practicing physician or surgeon who has heretofore been, or shall hereafter be, licensed by the State Board of Medical Examiners to practice as a physician or surgeon, who shall attend any patient while the said physician or surgeon is under the influence of whiskey or drugs, shall be deemed guilty of a misdemeanor, and, upon conviction, shall suffer a fine of not more than $200, or be imprisoned for a period of not more than sixty days, and in addition thereto, upon conviction, the license granted to such physician or surgeon shall be revoked and deemed null and void, and such physician or surgeon shall be disqualified from ever practicing medicine or surgery in this State until such physician or surgeon shall thereafter satisfy the State Board of Medical Examiners that he is qualified to resume the practice of medicine or surgery: *Provided,* That the provisions of this Section shall be construed as being in addition to the remedies now of force relating to physicians and surgeons who may be addicted to liquor or drug habits.

1918, XXX, 694.

(437) § 50. **Burying or Burning of All Dead Animals and Poultry Required—Penalty.**—Whenever any animal or poultry shall die from any natural or other cause, except from being slaughtered or killed for the use of man, or the dead body thereof be found upon the premises of any person, be he the owner or tenant thereof, the owner or owners of such dead animals and poultry, or the owner or owners or tenants on lands or premises upon which such dead bodies may be found, shall immediately burn or bury, or cause to be burned or buried, such dead animals and poultry, and when buried if an animal it shall be put not less than three feet, and when poultry not less than one foot, under the ground. The owner or owners of such dead animals or poultry who knowing that such dead animal or poultry is lying dead upon his own premises, or a tenant on premises having such knowledge or having notice thereof, refuses or fails to bury or burn such dead animals or poultry as aforesaid, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than five dollars nor more than ten dollars, or be imprisoned for a period of not more than thirty days.

1912, XXVII, 704.

(438) § 51. **Venereal Diseases Contagious.**—Syphilis, gonorrhea and chancroid, hereinafter designated as venereal diseases, are hereby declared to be contagious, infectious, communicable and dangerous to the public

health. It shall be unlawful for anyone infected with these diseases, or any of them, to expose another to infection.

1919, XXXI, 30.

(439) § 52. Cases to Be Reported—Proviso.—Any physician or other person who makes a diagnosis in or treats a case of venereal disease, and any superintendent or manager of a hospital, dispensary or charitable or penal institution in which there is a case of venereal disease, shall make a report of such case to the health authorities according to such form and manner as the State Board of Health shall direct: *Provided,* That nothing herein contained shall be so construed as to require or allow any physician or other person herein required to make such report to divulge the name or names of any person or persons, male or female, who may be afflicted with such diseases.

1919, XXXI, 30.

(440) § 53. Examination—Treatment—Isolation.—State, county and municipal health officers, or their respective jurisdictions, are hereby directed and empowered, when in their judgment it is necessary to protect the public health, to make examination of persons being or suspected of being infected with venereal disease, to require persons infected with venereal diseases to report for treatment until cured or to submit to treatment provided at public expense, and to isolate persons infected or reasonably suspected of being infected with venereal diseases.

1919, XXXI, 30.

(441) § 54. Examination of Prisoners.—All persons who shall be confined or imprisoned in any State, county or city prison of this State may be examined and treated for venereal disease by the health authorities or their deputies. The State, county and municipal boards of health shall have authority to take over such portion of any State, county or city prison as may be necessary for a board of health hospital, wherein all persons who shall have been confined or imprisoned and who are suffering with venereal disease at the time of the expiration of their terms of imprisonment shall be isolated and treated at public expense until cured, or in lieu of such isolation such person may, in the discretion of the board of health, be required to report for treatment to a licensed physician or submit to treatment provided at public expense as provided in the preceding Section.

1919, XXXI, 30.

(442) § 55. State Board of Health to Make Rules.—The State Board of Health is hereby empowered and directed to make such rules and regulations as shall in its judgment be necessary for the carrying out of the purposes of Sections (438) to (443), including rules and regulations providing for such labor on the part of isolated persons as may be necessary to provide in whole or in part for their subsistence, and to safeguard their general health, and such rules and regulations concerning venereal diseases as it may from time to time deem advisable All such rules and regulations so made shall be of force and binding upon all county and municipal health officers and other persons affected by said Sections.

1919, XXXI, 30.

(443) § 56. Violation of Act or Regulations a Misdemeanor—Penalty.—Any person who shall violate any of the provisions of Sections (438) to (442) or any lawful rule or regulation made by the State Board of Health pursuant to the authority therein granted, or pursuant to the authority granted by any other statute law, or shall fail or refuse to obey any lawful order issued by any State, county or municipal health officer, pursuant to the authority granted in this Section, or any other law or the regulations prescribed thereunder, shall be guilty of a misdemeanor, and, upon conviction thereof, shall suffer such penalty as shall be imposed by the trial Judge.

1919, XXXI, 30.

(444) § 57. Separate Accommodations for Prisoners With Tuberculosis.—1. The County Supervisors and County Commissioners of the respective counties of South Carolina shall provide in the jails or places of confinement where prisoners are committed for keeping or sentenced to a term of imprisonment, separate cells or rooms or places in which shall be confined all prisoners who may be committed for keeping or sentenced to a term of imprisonment who are affected with tuberculosis.

2. Examination of Prisoners by Physician.—It shall be the duty of the County Supervisor or Sheriff of any county, when a prisoner or inmate is placed in his custody, who the said official has reason to suspect is suffering with tuberculosis, to have such prisoner or inmate examined by a physician, and if such prisoner or inmate shall be pronounced by the examining physician as a tuberculosis person, then the prisoner or inmate shall be placed in a cell or place provided for by this Section.

3. Superintendents and Boards of Directors to Provide Separate Places of Confinement.—It shall be the duty of Superintendents and Boards of Directors of all State, penal and charitable institutions, to provide separate places of confinement for all prisoners and inmates who have been pronounced by the physician in charge as a tuberculosis person.

4. Cells of Tuberculosis Prisoners Not to Be Used for Other Prisoners—Fumigation.—All cells and places of confinement provided for in this Section for tuberculosis prisoners and inmates, shall under no conditions be used for the imprisonment or keeping of persons who are well and not affected with tuberculosis, unless the said cells and places of confinement have been thoroughly fumigated and disinfected.

5. Examination of Prisoners Within Five Days.—It shall be the duty of the jailer, keeper or warden of all places of confinement designated in this Section, to have all prisoners and inmates who are suspected to be suffering with tuberculosis, examined within five days after they have been committed.

6. Association of Prisoners on Public Works Not Prohibited.—Nothing in this Section shall be construed as to interfere with or prevent the county authorities from working or housing together all prisoners on public works as now provided by law.

7. Punishment For Violation.—Any person or persons violating the provisions of this Section shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined or imprisoned in the discretion of the Court.
1915, XXIX, 196.

(445) § 58. Employing Teacher Without Health Certificate a Misdemeanor—Penalty.—Any person failing to comply with the provisions of Sections (2352) to (2355), Civil Code, or in any manner violating same, shall be guilty of a misdemeanor, and shall be subject to a fine of not more than fifty ($50.00) dollars or not more than thirty (30) days imprisonment.
1920, XXXI, 941.

(446) § 59. Violation of Hotel Regulations a Misdemeanor—Penalty—Each Day a Separate Offense.—Any owner or manager, agent or person in charge of a hotel or restaurant or any other person who shall wilfully obstruct, hinder or interfere with any inspector in the proper discharge of his duty or who shall wilfully fail or neglect to comply with any of the provisions of Sections (2366) to (2391), Civil Code, after notice from the inspector or any other person in authority, shall be guilty of a misdemeanor, and, upon conviction thereof, be fined not less than twenty-five dollars nor more than one hundred dollars for each offense, and each day of failure to comply with the provisions of said Sections shall be a separate and distinct offense.
1920, XXXI, 860.

(447) § 60. Penalty for Violation of Vital Statistics Laws.—Any person, firm or corporation who shall violate any rule, regulation or order of the State Board of Health relative to recording, reporting or filing information of the Bureau of Vital Statistics, or who shall wilfully neglect or refuse to perform any necessary or reasonable duties imposed upon them by said orders, or who shall furnish false information for the purpose of making incorrect records for said Bureau, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five dollars nor more than one hundred dollars, or be imprisoned in the county jail not exceeding thirty days, or suffer both fine and punishment, in the discretion of the Court.
Ex 1914, XXIX, 24.

(448) § 61. Distribution of Dead Bodies for Scientific Purposes.—If any person shall fail or refuse to perform any duty imposed upon him by Sections (1052) to (1057) of the Civil Code, in reference to the distribution of dead bodies, he shall, for every such failure or refusal, be fined not less than one hundred nor more than five hundred dollars.
Crim. Code, '12, § 403; 1909, XXI, 166.

(449) § 62. Local Boards of Health—Quarantine.—Any person violating the provisions of Section (2316), Civil Code, shall upon conviction, be deemed guilty of a misdemeanor, and shall be fined not exceeding one hundred dollars, or imprisonment not exceeding thirty days; and each member of the Council of any village; town or city neglecting or re-

fusing to establish and maintain a local Board of Health shall be deemed to violate this Section and, upon conviction, shall be subject to the foregoing penalties.

Crim. Code, '12, § 439; 1905, XXIV, 903.

(450) § 63. Neglect of Duty by Officers of Board of Health.—Any physician or secretary of a local Board of Health, failing to comply with the provisions of Section (2317), Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not less than five dollars nor more than twenty-five dollars, or be imprisoned in the county jail for a period not exceeding thirty days.

Crim. Code, '12, § 440; 1900, XXIII, 444; 1910, XXVI, 728.

(451) § 64. Violation of Compulsory Vaccination Law a Misdemeanor.—Any officer or person who shall fail, neglect or refuse to comply with any provisions of Sections (2316) to (2325), Civil Code, inclusive, applicable to such officer or person, shall be guilty of a misdemeanor, on conviction thereof in a Court of competent jurisdiction, shall be fined in the sum of one hundred dollars, or be imprisoned for thirty days.

Crim. Code, '12, § 441; 1905, XXIV, 871.

(452) § 65. Penalty for Parent Refusing to Allow Examination of Child.—Any parent of child refusing to allow the medical and dental inspection, as provided for in Section (2630), Civil Code, shall be subject to a fine of five dollars or ten days in jail for each offense.

Civ. '12, § 1761; Civ. '02, § 1218; 1896, XXII, 165; 1920, XXXI, 1046.

(453) § 66. Failure to Work on Drains in Beaufort County a Misdemeanor—Penalty.—Any person summoned as provided in Section (3207), Civil Code, who shall fail or refuse to appear at the time and place named in the summons, or shall fail or refuse to faithfully work as required by the said Drainage Commission, or by the person or persons placed in charge of the work by the said Drainage Commission, shall be deemed guilty of a misdemeanor, and, if found guilty, shall be fined not more than one hundred dollars or imprisonment for not more than thirty days.

1920, XXXI, 956.

CHAPTER VIII.

Offenses Against the Currency.

(454) § 1. Counterfeiting.—Whoever shall be convicted of counterfeiting, or uttering, or attempting to pass, knowing it to be a counterfeit, any of the following gold or silver coin, to wit: A Spanish milled dollar, Johannes half ditto, quarter ditto, eighth ditto, Moidore, half ditto, quarter ditto, eighth ditto, French Crown of four to the Louis d'or, English Crown, Pistareen, Spanish Doubloon, Double Pistole, Pistole, half ditto, English Guinea, half ditto, quarter ditto, French Guinea, German Piece, half ditto, Ducat; or of making or keeping in possession any stamp or

mould for coining, shall suffer the punishment imposed for the offence of forgery.

Crim. Code, '12, § 529; Crim. Code, '02, § 374; G. S. 2528; R. S. 296.

Staking counterfeit coin at gaming table is an attempt to utter and pass it. State *v.* Beeler, 1 Brev. 482.

INDICTMENT—

Must charge attempt to defraud some particular person. State *v.* Odell, 3 Brev. 552.

Though it may state ingredients of which coin is made, it need not be proved in this particular. State *v.* Beeler, 1 Brev. 482.

EVIDENCE—

To show defendant had counterfeited other dollars than silver dollars, as alleged in indictment, was held inadmissible. State *v.* Odell, 3 Brev. 552. But this case was overruled in State *v.* Allen, 56 S. C. 495, 35 S. E. 204. See, also, State *v.* Antonio, 3 Brev. 562; State *v.* Huston, 1 Bail. 300; State *v.* Williams, 2 Rich. 418; State *v.* Hooper, 2 Bailey 37; State *v.* Tutt, 2 Bailey 44.

Possession of coining instruments may be given in evidence to prove defendant's scienter. State *v.* Antonio, 3 Brev. 562.

(455) § 2. Issuing Paper Resembling Bank Notes.—It shall be unlawful for any person to issue, utter, or publish any printed or engraved paper bearing a resemblance to a bank note; and any person who shall violate the provisions of this Section shall, upon indictment and conviction thereof, be fined or imprisoned, at the discretion of the Court.

Crim. Code, '12, § 530; Crim. Code, '02, § 375; G. S. 2529; R. S. 297; 1856, XII, 538.

The Section embraces uttering and publishing counterfeits of notes of United States Bank. State *v.* Tutt, 2 Bail. 44. Or of its branches. State *v.* Pitman, 1 Brev. 32. Or of Bank of the State. State *v.* Billis, 2 McC. 12.

INDICTMENT—

Should describe the offense in the words of the Section. State *v.* Petty, Harp. 59.

In charging the uttering of a forged bill of exchange, payable to A B, it need not allege the endorsement of A B. State *v.* Tutt, 2 Bail. 44.

EVIDENCE—

Witness acquainted with handwriting of president of bank permitted to prove falsity of signature. State *v.* Stalmaker, 2 Brev. 1.

Testimony to show that prisoner had in his possession other notes supposed to be forged, admissible to show his knowledge of the counterfeit. State *v.* Petty, Harp. 59.

Or to show that another note passed by him was forged. State *v.* Huston, 1 Bail. 300; State *v.* Hooper, 2 Bail. 37; State *v.* Williams, 2 Rich. 418.

An officer of the Bank is in no case the only competent witness to prove a note counterfeit. State *v.* Hooper, 2 Bail. 37; State *v.* Anderson, 2 Bail. 565.

The former case overruling State *v.* Petty, Harp. 59, on this point.

The person whose name is alleged to have been forged was not a competent witness to prove the forgery. State *v.* Whitten, 1 Hill 100 overruling. State *v.* Foster, 3 McC. 442.

JUDGMENT—

Arrested where indictment omitted the word "did," before the words "utter and publish, etc." State *v.* Halder, 2 McC. 377.

Where pending appeal the punishment had been reduced, sentence should be for lesser punishment. State *v.* Williams, 2 Rich. 418.

(456) § 3. Bank to Furnish Witnesses in Trial for Counterfeiting Its Notes.—When information shall be given to the president of any bank in South Carolina, by the Attorney General, or by any of the Solicitors of this State, that any person has been apprehended, and is to be tried in any county in this State for counterfeiting any of the notes of the said bank, or for passing such counterfeit note, knowing it to be false, or for stealing any note of said bank, it shall be the duty of the said bank to cause its cashier, or some competent witness, to attend in person and give evidence on such trial, on pain of the forfeiture of one thousand dollars, for the use of the State, to be recovered by indictment.

Crim. Code, '12, § 531; Crim. Code, '02, § 376; G. S. 2530; R. S. 298; 1828, VIII, 57; 1832, VIII, 66; 1833, VIII, 67.

CHAPTER IX.

Offenses by Certain Officers.

(457) § 1. Contracts in Excess of Sum Limited—Diverting Public Funds—Penalty.—It shall be unlawful for any public officer,

State or county, authorized to so contract, to enter into or contract, for any purpose whatsoever, in a sum in excess of the tax levied, or the amount appropriated, for the accomplishment of such purpose; or to divert or appropriate the funds arising from any tax levied and collected for any one fiscal year to the payment of any indebtedness contracted or incurred for any previous year; and on violating the provisions of this Section, he shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by a fine not exceeding five thousand dollars and not less than five hundred dollars, and by imprisonment at hard labor in the State Penitentiary for a period not exceeding five years nor less than one year, or either or both, in the discretion of the Court.

Crim. Code, '12, § 532; Crim. Code, '02, § 377; G. S. 458, 459, 460; R. S. 299; 1874, XV, 692; 1906, XXV, 206.

(458) § 2. Municipal Officers Cannot Apply Proceeds of Tax Specially Levied for Other Purposes.—Whenever a municipal corporation shall levy and collect a tax for any specific purpose, it shall be unlawful for the officers or agents of any such municipal corporations to apply any of the proceeds of such tax levy to any other purpose than that for which it was collected, until the same shall have been discharged or fulfilled or abandoned. Any muncipial officer or agent violating the provisions of this Section shall be fined in a sum of not less than five hundred dollars, or imprisoned not less than six months, or both in the discretion of the Judge.

Crim. Code, '12, § 533; 1909, XXVI, 124.

(459) § 3. Embezzlement of Public Funds a Felony—Punishment.—All officers and other persons charged with the safe keeping, transfer and disbursements of any public funds, who shall embezzle the same, shall be deemed guilty of felony, and, upon conviction thereof, shall be punished by fine and imprisonment, in the discretion of the Court; said fine and imprisonment to be proportioned to the amount of the embezzlement; and the party convicted of such felony shall be disqualified from ever holding any office of honor or emolument in this State: *Provided, however,* That the General Assembly, by a two-thirds vote, may remove the disability upon payment in full of the principal and interest of the sum embezzled.

Crim. Code, '12, § 534; Crim. Code, '02, § 378; 1898, XXII, 810.

(460) § 4. Assumption of Office Before Qualifying and Being Commissioned.—It shall be unlawful for any person to assume the duties of any public office until he has taken the oath provided by the Constitution, and been regularly commissioned by the Governor. The term "public officers" shall be construed to mean all officers of the State that have heretofore been commissioned, the trustees of the various colleges of the State, members of various State boards, and other persons whose duties are defined by law.

Crim. Code, '12, § 535; 1901, XXIII, 754.

Superintendent of poorhouse farm an officer. Sanders v. Belue, 78 S. C. 171, 58 S. E. 762.

(461) § 5. Assumption of Office Before Giving Bond.—It shall be unlawful for any person to assume or attempt to assume the duties of any office for which a bond is required, without having given the bond required;

and any person assuming or attempting to assume the duties of any office as aforesaid, shall be guilty of a misdemeanor, and shall be subject to a fine of five hundred dollars, or imprisonment for not less than three months, in the discretion of the Court.

Crim. Code, '12, § 536; Crim. Code, '02, § 379; 1901, XXIII, 750.
State *v.* Messervy, 86 S. C. 503, 506, 68 S. E. 766.

(462) § 6. Misdemeanor for County Officer to Fail to Keep Record of Fees.—Any county officer neglecting or refusing to comply with any of the provisions of Section (765) of the Civil Code, as amended by Act of 1920, requiring officers to keep an itemized statement of fees and costs received, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty nor more than two hundred dollars, or imprisoned in the county jail not less than two nor more than six months, either or both, at the discretion of the Court.

Crim. Code, '12, § 537; Crim. Code, '02, § 380; 1897, XXII, 458; 1898, XXII, 742; 1920, XXXI, 1149.

(463) § 7. County Officers Guilty of Misconduct, Etc.—How Removed.—Any County officer who is guilty of misconduct or persistent neglect of duty in office, or any person who persists in holding any county office to which he has been appointed or elected, the duties of which he has not the capacity to properly discharge, shall, upon indictment and true bill after warrant, or after presentment of a grand jury and indictment and true bill thereon, be tried as for misdemeanor in office, and, upon conviction the office shall be declared vacant and the sentence shall be removal of defendant from office, and vacancy shall be filled as when a vacancy occurs by death or resignation.

Crim. Code, '12, § 538; Crim. Code, '02, § 381; 1897, XXII, 423.

(464) § 8. No Municipal Officer May Contract with Municipality—Violation a Misdemeanor.—No municipal officer shall take a contract to perform work or furnish material for the municipal corporation of which he is an officer, and no such officer shall receive any compensation on any contract for said purpose: *Provided,* That in cities of over thirty thousand inhabitants, such contracts may be allowed by the unanimous vote of City Council upon each specific contract, such vote to be taken by yeas and nays, and entered upon Council's journal. Any person violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine or imprisonment, in the discretion of the Court before whom such conviction is had.

Crim. Code, '12, § 304; Crim. Code, '02, § 224; 1900, XXIII, 455.

(465) § 9. Misdemeanor for Officers to Give False Certificates to Witnesses or Jurors of Mileage Traveled.—Any officer whose duty it is to certify to the mileage of any juror, witness or other person required to attend Court or to travel to perform any legal duty, who shall knowingly allow any claim for mileage otherwise than is herein prescribed, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by fine or imprisonment, or both, in the discretion of the Court, and shall, whether indicted criminally or not, be liable to a civil action to pay as a

penalty for the benefit of the county, a sum equal to ten times the amount which the county may lose by reason of any payment for mileage, in excess of that allowed by law.

Crim. Code, '12, § 302; Crim. Code, '02, § 222; 1897, XXII, 732.

(466) § 10. Acceptance of Rebates Prohibited—Punishment—Exception.—No person holding an office or position of trust or profit in this State, or in the public institutions thereof, shall accept rebates or extra compensation, in addition to that provided by law.

Any person violating the provisions of this Section shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, or be imprisoned for not less than three months nor more than five years.

This Section shall not apply to officers accepting rebates, not for their individual use, but for the benefit and in behalf of the State.

Crim. Code, '12, § 539; Crim. Code, '02, § 382; 1899, XXIII, 96.

(467) § 11. Clerk of Court or Magistrate Failing to Pay Over Fines, Etc.—Any Clerk of the Circuit Court of General Sessions, County Sheriff, or Magistrate, who shall neglect or refuse to immediately pay over, as required, any and all fines and penalties collected by them in any criminal cause or proceeding, shall, on conviction thereof, be subject to a fine of not less than one hundred nor more than one thousand dollars, and imprisonment not less than three nor more than six months, and shall be dismissed from office, and disqualified from holding any office of trust and profit under this State.

Crim. Code, '12, § 540; Crim. Code, '02, § 383; G. S. 2553; R. S. 300; 1871, XIV, 656.

(468) § 12. Clerks Responsible for Books, Papers, Etc.—Failure to Transfer to Successor.—Every Clerk shall be held responsible for the books, papers and furniture in his office; and upon his retiring from office, or death, he or his representative shall be bound to transfer the same to his successor, immediately after such successor has entered upon the duties of his office, under a penalty of one thousand dollars and imprisonment not exceeding one year.

Crim. Code, '12, § 541; Crim. Code, '02, § 384; G. S. 757; R. S. 301; 1839, XI, 114.

(469) § 13. Clerks to Report to Auditors and Treasurer—Penalty— Every Clerk of the Court is required, on the first Wednesday in each month, or within ten days thereafter, to make in writing, to the Auditor and Treasurer of his county, a full and accurate statement of all moneys collected on account of licenses, fines, penalties and forfeitures during the past month, on pain of indictment, and, in case of conviction, of being fined not more than one hundred dollars, or imprisoned not more than two months, or both, at the discretion of the Court.

Crim. Code, '12, § 542; Crim. Code, '02, § 385; R. S. 302; G. S. 759; 1878, XVI, 763.

(470) § 14. Sheriff or Other Officer Taking Reward, Etc., Promised. —If a Sheriff, Deputy Sheriff, Constable, or other officer authorized to serve legal process, receives from the defendant, or any other person, any money or other valuable thing as a consideration, reward or inducement for

omitting or delaying to arrest a defendant, or to carry him before a Magistrate, or for delaying to take a person to prison, or for postponing the sale of property under an execution, or for omitting or delaying to perform any duty pertaining to his office, he shall be punished by a fine not exceeding three hundred dollars.

Crim. Code, '12, § 543; Crim. Code, '02, § 386; G. S. 2554; R. S. 303; 1869, XIV, 308.

(471) § 15. Public Officers Must Turn Over Moneys in Their Hands to Successors—Penalty.—It shall be the duty of every Sheriff, Judge of Probate, Clerk of the Court of Common Pleas, County Treasurer, and any other State or County officer entrusted with funds by virtue of his office, upon retiring from office, to turn over to his successor all moneys received by him as such officer, and remaining in his hands as such officer, within thirty days from the time when his successor shall have entered upon the duties of his office, in the same manner as he is required by law to turn over the furniture, books and papers; and the successor shall receive and be responsible for the moneys so turned over to him, in the same manner as he is liable for other moneys received by him officially; and any public officer neglecting or refusing obedience to the requisition herein contained shall be held guilty of a misdemeanor, and, upon conviction, shall be liable to a fine of one thousand dollars and imprisonment not exceeding twelve months, besides his liability on his official bond, at the suit of any person aggrieved by such neglect.

Judge of Probate Responsible for Books, Etc., Transfer to Successor. —Every Judge of Probate shall be responsible for the books and papers, and also for the furniture, in his office, and upon his retiring from office, or upon his death, he or his representatives shall be bound to transfer the same to his successor immediately after such successor shall have entered upon the duties of his office, under a penalty of one thousand dollars, to be recovered by indictment, and of imprisonment not exceeding one year.

Crim. Code, '12; § 544; Crim. Code, '02, § 387; G. S. 457, 779; R. S. 304; 1874, XV, 674; 1885, XIX, 158.

Embraces Superintendent of Penitentiary. State *v.* Neal, 59 S. C. 259, 37 S. E. 826. Clerk of Court. State *v.* Assmann, 46 S. C. 555, 24 S. E. 673.

(472) § 16. Certain Officers Guilty of Misconduct to Be Indicted.—Any public officer hereafter to be elected or appointed, whose authority is limited to a single election or judicial district, who shall be guilty of any official misconduct, habitual negligence, habitual drunkenness, corruption, fraud or oppression, shall be liable to indictment, and, upon conviction thereof, shall be fined not exceeding one thousand dollars and imprisoned not exceeding one year.

Crim. Code, '12, § 545; Crim. Code, '02, § 388; R. S. 305; 1829, VI, 391.

Allegations in indictment as to official misconduct by County Supervisor. State *v.* Jacques, 65 S. C. 178, 43 S. E. 515.

This Section covers violations of law principally of an active nature. State *v.* Green, 52 S. C. 520, 30 S. E. 683; State *v.* Tarrant, 24 S. C. 593.

An officer whose term has expired or who has resigned or been removed may be indicted under this Section. State *v.* Sellers, 7 Rich. 370.

General official misconduct is punishable only under this Section. State *v.* Hall, 5 S. C. 120.

Furnishing prisoners with spirituous liquors by jailer is official misconduct. State *v.* Sellers, 7 Rich. 368.

False voucher of Treasurer is an official fraud. State *v.* Cardozo, 11 S. C. 232.

Indictment—

That joins a charge of general misconduct under this Section with a charge of particular neglect of official duty is defective. State *v.* Hall, 5 S. C. 120.

DEFENSE—
None by jailer that his appointment was not in writing. State *v.* Sellers, 7 Rich. 368. Applied to School Trustee; State *vs.* Elliott 94 S. C. 35:77 S. E. 728.

(473) § 17. Misdemeanor to Allow Records to Be Taken, Etc.—If any Clerk of any Court of Record, Judge of Probate, Master, Register of Mesne Conveyances, or Sheriff, shall allow any record, or any part thereof, to be taken or removed from their respective offices by any person or persons whomsoever, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, he shall be punished by a fine of fifty dollars for the first offense, and for the second and any subsequent offense by a fine of one hundred dollars: *Provided,* That nothing herein contained shall be held to apply to the attendance of any of the said officers with any of the records of their respective offices in any Court or Courts when the actual production of such record is required by the proper process of such Court for the purpose of evidence in any trial or trials then proceeding therein: *Provided, also,* That the provisions of this Section shall not apply to the taking or removal of any books or records where the same is done under any order of a Circuit Judge for the better preservation or protection of the same.

PERSONS TAKING RECORDS WITHOUT CONSENT.—Any person who shall take any record from the office of the Clerk of the Court, Judge of Probate, or Master in Equity, without consent of the officer having control of the same, shall be guilty of a misdemeanor, and liable to the same penalty as is provided in this Section.

Crim. Code, '12, § 547; Crim. Code, '02, § 390; G. S. 2557; R. S. 307; 1882, XVII, 871; 1885, XIX, 415.

(474) § 18. Neglect of Duty by Clerk, Etc.—How Punished.—Any Clerk of the Court of Common Pleas and General Sessions, or Sheriff, or Judge of Probate, or Register of Mesne Conveyances, in this State, who shall willfully fail or neglect to discharge all the duties and perform all the services which are required of him by law, in addition to his liability to the party aggrieved, shall be liable to be indicted as for a misdemeanor, and, upon conviction thereof, shall be fined, at the discretion of the Court, not exceeding five hundred dollars.

Crim. Code, '12, § 548; Crim. Code, '02, § 391; G. S. 2558; R. S. 308; 1837, VI, 577.

Construed with § (472), and held to apply to wilful neglect or failure, passive in its nature. State *v.* Green, 52 S. C. 520, 30 S. E. 683.
Construed with § (471). State *v.* Hall, 5 S. C. 120.
INDICTMENT—
Which in effect and substance charges neglect of any official duty imposed by law on the officers named is founded upon this Section, and not upon § (471). State *v.* Hall, 5 S. C. 120.
It must specify the particular duty neglected. *Ib.*
It will not lie against a Probate Judge for neglecting to pay out money arising from partition sale until an order for distribution has been obtained. *Ib.*

(475) § 19. Officers Reported by Circuit Solicitor to Be Indicted.—If any of the said officers shall be reported by a Circuit Solicitor as having wilfully failed or neglected to discharge any of the duties, or to perform any of the services, appertaining to his office, which are required of him by law, it shall be the duty of the Court to order a bill of indictment to be preferred against such delinquent officer.

Crim. Code, '12, § 549; Crim. Code, '02, § 392; G. S. 2559; R. S. 309; 1837, VI, 577.

(476) § 20. Circuit Solicitors—If Disabled by Intoxication, How Punished.—Any Circuit Solicitor who shall, while in the public discharge of the duties of his office, be drunk or intoxicated, or in any extent disabled, by reason of the use of intoxicating liquors, from the proper discharge of his duties, shall be held guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred or more than one thousand dollars, and imprisoned not less than one month or more than one year, in the discretion of the Court, and be dismissed from his office. And whenever it shall be brought to the attention of the Attorney General that any Circuit Solicitor has been charged with the offense mentioned in this Section, it shall be his duty to prepare a bill of indictment against such officer, and prosecute the same in the county where the offense was committed; and if said officer is duly convicted, he shall cause to be forwarded to the Governor of the State a record of such conviction, upon the receipt of which the Governor shall forthwith declare the said office to be vacant, and order an election to fill the same.

Crim. Code, '12, § 550; Crim. Code, '02, § 393; G. S. 2560; R. S. 310; 1873, XV, 486.

(477) § 21. Punishment of Officers Guilty of Neglect or Corrupt Conduct.—If any officer on whom any duty is enjoined in Sections (233) to (284), inclusive, of the Civil Code, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding one year.

Crim. Code, '12, § 372; Crim. Code, '02, § 280; G. S. 140; R. S. 244; 1888, XX, 10.

(478) § 22. To Be Deemed Guilty of Official Misconduct—When—Punishable on Conviction—Proviso.—If any Sheriff shall be attached for contempt for failing to execute or to return final process in any civil suit, or for not paying over to the party entitled money which has come into his hands as Sheriff, and shall remain in contempt for the space of thirty days after such attachment ordered, every such Sheriff shall be deemed guilty of official misconduct, and shall be liable to be proceeded against by indictment, and, on conviction, be liable to fine of not exceeding one thousand dollars, and imprisonment not exceeding one year, and be removed from office: *Provided*, That nothing herein contained shall be construed to deprive any such Sheriff of his right to appeal from any order against him for a contempt, nor shall the provisions of this Section be taken to apply during the pendency of such appeal, nor until the same has been finally dismissed.

Crim. Code, '12, § 552; Crim. Code, '02, § 395; G. S. 674; R. S. 312; 1844, XI, 296.

(479) § 23. To Execute Writs of Habeas Corpus.—Every Sheriff, Deputy Sheriff, or Jailer shall have power, and he is authorized, required, and commanded, to give due obedience to the execution of every writ of *habeas corpus*, made or signed by any person or persons by law empowered to grant the same, and shall do and perform any matter or thing which by the same he may be required to do; and if he shall wilfully neglect, refuse, or omit to obey or perform the same, when legally requested and demanded

in such case, for each such neglect, refusal, or omission, he shall forfeit the sum of five hundred dollars, to be recovered by indictment.

Crim. Code, '12, § 553; Crim. Code, '02, § 396; G. S. 680; R. S. 313; 1839, XI, 48.

(480) § 24. Punishable As for Escape of Criminal.—If any Sheriff, Deputy Sheriff, Jailer, or other officer wilfully suffer a prisoner in his custody, under conviction or under any criminal charge not capital, to escape, he shall suffer the like punishment and penalties as the prisoner suffered to escape was sentenced to, or would be liable to suffer, upon conviction of the crime or offense wherewith he stood charged.

Crim. Code, '12, § 554; Crim. Code, '02, § 397; G. S. 682; R. S. 314; 1839, XI, 46; 1869, XIV, 309.

(481) § 25. Penalties for Purchasing at Their Own Sales.—No Sheriff or Deputy Sheriff shall be concerned or interested, directly or indirectly, in the purchase of any property sold by either of them officially; and if any such Sheriff or Deputy Sheriff shall be concerned or interested in any such purchase at any such sale, made by either of them, he shall, on conviction thereof, be deprived of his office, and shall be liable to be fined and imprisoned, at the discretion of the Court; and such purchase shall be null and void.

Crim. Code, '12, § 555; Crim. Code, '02, § 398; G. S. 684; R. S. 315; 1791, VII, 263; 1823, VI, 213; 1839, XI, 55.

(482) § 26. Penalty for Sheriff or Deputy Purchasing Executions.—If any Sheriff, or his Deputy, shall contract for, buy or purchase any judgment or decree of any Court which may become his duty to enforce, or any execution lodged in his office, or cause the same to be done, directly or indirectly, the said Sheriff, or his Deputy, shall forfeit and pay, for every such offense, treble the amount of such judgment, decree, or execution, one-half of which said forfeiture shall be paid to the State and the other half to the informer; and the same shall be recoverable with full costs by action or by indictment in any Court of competent jurisdiction, and, by any such purchase, such judgment, decree or execution shall be *ipso facto* satisfied.

Civ. '12, § 1184; Civ. '02, § 859; G. S. 677; R. S. 739; 1839, XI, 47, § 36; 1823, VI, 213, § 1.

(483) § 27. To Turn Over Books, Papers, Etc., to His Successor.—It shall be the duty of every Sheriff to turn over to his successor all the furniture appertaining to his office, the original Writ Book, and Sale Book, and also the original Execution Book, or a correct certified copy thereof, and also all original bonds officially taken by him, all mesne processes not served, and all final processes partially or wholly unexecuted; and if any Sheriff be dead, his personal representatives shall so turn over the matters aforesaid; and the successor shall be bound to execute a receipt and duplicate, to be lodged in the Clerk's office, specifying the matters and things so received by him, and he shall be responsible for them. The retiring Sheriff, or his successor, neglecting or refusing obedience to the requisitions herein, shall, respectively, upon conviction by indictment, be liable to a fine of one thousand dollars, or an action may be instituted upon the official

bond of any defaulting Sheriff in this behalf, for the penalty aforesaid, and it shall be the duty of such predecessor, who has levied upon personal property and not sold it, to deliver it to his successor at the time of turning over such books, bonds, and processes, taking his receipt for the same, who is authorized to sell such property.

Crim. Code, '12, § 556; Crim. Code, '02, § 399; G. S. 657; R. S. 316; 1791, VII, 263; 1839, XI, 40; 1859; XII, 788.

(484) § 28. **Forfeiture and Fine for Default in Returning Warrants, Etc., of Magistrate.**—If the Sheriff shall neglect or delay to return any warrant or other process pertaining to the Court of General Sessions, issued by a Magistrate ten days before the meeting of the Court, he shall forfeit his fees, and be subject to a fine of five dollars for every such default, if upon a rule to show cause, he shall fail to excuse himself to the satisfaction of the Court.

Crim. Code, '12, § 557; Crim. Code, '02, § 400; G. S. 693; R. S. 317; 1836, VI, 552.

(485) § 29. **Sheriff to Pay Over Money to His Successor Within One Month.**—It shall be the duty of every Sheriff, on the expiration of his term of office, to turn over to his successor all money remaining in his hands as Sheriff, within one month from the time his successor shall have entered on the duties of his office, in the same manner as he is required to turn over to his successor the furniture, books, bonds, processes, and other papers; and his successor shall receive and be responsible for the money so turned over to him, in the same manner as he is liable for other money received by him as Sheriff.

Retiring Sheriff Entitled to Half Commissions.—The retiring Sheriff shall be entitled to retain only one-half of the commissions allowed by law on moneys collected and so turned over, and his successor the other half, for paying out the same.

Liabilities to Fine and Imprisonment.—The retiring Sheriff, or his successor, neglecting or refusing obedience to the requisitions herein contained, shall respectively, upon conviction by indictment, be liable to a fine of one thousand dollars and imprisonment not exceeding twelve months.

Crim. Code, '12, § 558; Crim. Code, '02, § 401; G. S. 694, 695, 696; R. S. 318; 1859, XII, 788.

(486) § 30. **Must Furnish Statement Monthly to Auditor and Treasurer.**—All Sheriffs are required, on the first Tuesday in every month, or within ten days afterwards, to make in writing to the Auditor and Treasurer of the several counties a full and accurate statement of all moneys collected by them on account of licenses, fines, penalties, or forfeitures during the past month; and in default thereof, upon conviction, shall be liable to a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding two months, or both at the discretion of the Court.

Crim. Code, '12 § 559; Crim. Code, '02, § 402; G. S. 700; R. S. 319; 1878, XVI, 753.

(487) § 31. **Penalty for Violating Homestead Law by Officers.**—No Sheriff, Constable, or other officer whose duty it is to enforce execution, shall proceed in any other manner than is prescribed in the homestead laws

of this State to enforce any execution in his hands; and should any officer sell any real estate, or sell or remove any personal property, in violation of the homestead laws of this State, and of the Constitution of the State of South Carolina, he shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be fined in a sum not less than five hundred dollars nor more than one thousand dollars, and upon conviction of the second offense his office shall be deemed vacant.

Crim. Code, '12, § 560; Crim. Code, '02, § 403; G. S. 2003; R. S. 320; 1880, XVII, 516.

(488) § 32. Duty of Sheriff to Arrest Escaped Convicts.—It shall be the duty of the Sheriffs of this State, and they are hereby required, under the penalty hereinafter provided, to arrest in their respective counties, with or without a warrant, all escaped convicts from the Penitentiary or from the chaingang or jails found in their said counties; and upon said arrest it shall be the duty of said Sheriff to immediately notify the proper authorities from whose care said convicts escaped.

Neglect a Misdemeanor.—Upon any willful neglect or failure on the part of any such Sheriff to comply with the provisions of this Section, he shall be deemed guilty of a misdemeanor, and, upon conviction, be fined in a sum of not more than five hundred dollars nor less than one hundred dollars, or be imprisoned for not more than six months, or be both fined and imprisoned, at the discretion of the Court.

Crim. Code, '12, § 561; Crim. Code, '02, § 404; 1900, XXIII, 305.

(489) § 33. Failure to Enter Tax Execution on Execution Book a Misdemeanor.—Any Sheriff failing to enter tax executions upon his execution book, or to take receipts thereon, as herein required shall, upon conviction thereof, be punished as for a misdemeanor. Nothing herein contained shall be construed to relieve the Sheriff from any of the penalties, civil or criminal, now provided by law for his failure to comply with the law prescribing his duties in relation to tax executions.

Crim. Code, '12, § 562; Crim. Code, '02, § 405; 1900, XXIII, 306.

(490) § 34. Penalty on Coroner Failing to Report.—Any Coroner who shall wilfully neglect to make the report, as in Code of Procedure provided, shall be liable to indictment as for a misdemeanor, and, upon conviction, shall be fined not less than fifty nor more than five hundred dollars, or imprisoned not less than thirty days nor more than six months, or both, at the discretion of the Court.

Crim. Code, '12, § 563; Crim. Code, '02, § 406; G. S. 721; R. S. 321; XV, 439, 440.

(491) § 35. Coroner of Charleston County—Neglect of Duty a Misdemeanor—Penalty.—For any neglect of the duties of the office of Coroner for Charleston County, or for any malfeasance therein, the Coroner, Deputy Coroner, or the Magistrate authorized by law to act as Coroner, so neglecting such duty, or so committing malfeasance therein, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars and not more than one thousand dollars, or be imprisoned at the discretion of the Court, or be both fined and im-

prisoned, as the Court may direct; one-half of such fine shall be paid to the person informing upon such neglect or malfeasance.

Crim. Code, '12, § 564; Crim. Code, '02, §407; R. S. 322, 1885, XIX, 426.

(492) § 36. Magistrate Must Hold Preliminary.—If any Magistrate fails to hold preliminary or have same waived by setting date for preliminary and to return such papers and report thereon to the Clerk, as directed in the Code of Procedure, he shall be subject to the payment of a fine of five ($5.00) dollars for every such default, within the discretion of the Court, to which a rule thereof shall be made returnable.

Crim. Code, '12, § 565; Crim. Code, '02, § 408; G. S. 855, 856; R. S. 323; 1836, VI, 552; 1839, XI, 23; 1918, XXX, 769.

(493) § 37. Penalty for Failure to Make Monthly Reports.—Every Magistrate shall, on the first Wednesday of each month, or within ten days thereafter, make, in writing, to the Auditor and Treasurer of his county, a full and accurate statement of all moneys collected by him on account of licenses, fines, penalties or forfeitures during the past month. In default thereof, he shall, on conviction, be liable to a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding two months, or both, at the discretion of the Court.

Crim. Code, ' 12, § 566; Crim. Code, '02, § 409; G. S. 802; R. S. 324; 1878, XVI, 753.

(494) § 38. Penalty for Neglect to Pay Over Fines.—If any Magistrate shall neglect or refuse to immediately pay over all fines and penalties collected by him in any criminal cause or proceeding, he shall, on conviction thereof, be subject to a fine of not less than one hundred or more than one thousand dollars, and imprisonment not less than three nor more than six months, and shall be dismissed from office.

Crim. Code, '12, § 567; Crim. Code, '02, § 410; G. S. 858; R. S. 325; 1871, XIV, 656; XV, 420.

(495) § 39. Regulations As to Books Held by Magistrates As Public Property—Penalty.—Upon the expiration of the term of office of any Magistrate, it shall be the duty of such Magistrate to return to the Clerk of the Court of his county, within thirty days, all books received by him from said Clerk, under the law regulating the distribution of books among Magistrates, in good condition; and any Magistrate neglecting or refusing to return such books to the said Clerk, received by him under and by the terms of this Section, or pay for the same or damage thereto, shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any Court of competent jurisdiction, shall be fined in the sum of not less than ten dollars nor more than twenty-five dollars, or be imprisoned not less than ten days nor more than thirty days, at the discretion of the Court.

Disposition of Moneys.—The fines imposed or money received under this Section shall be paid over to the Clerk of the Court when collected, to be expended in replacing such books as are not returned or are too much damaged to be reissued, and to be used for no other purpose.

Crim. Code, '12, § 568; Crim. Code. '02. § 411; G. S. 862; R. S. 326; 1871, XVII, 872.

(496) § 40. **Not to Receive Fees in Criminal Cases; Nor to Take Constable's Pay.**—It shall be unlawful for any salaried Magistrate in this State to receive any compensation for his services in criminal causes other than his salary, or to receive for his own use any portion of his Constable's fees or salary in any criminal causes whatsoever, whether said causes are actually tried, compromised or transferred for investigation to the Court of General Sessions.

Any Magistrate who shall violate the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars and not more than two hundred dollars, or imprisoned not less than thirty days and not more than six months, or both fine and imprisonment at the discretion of the Court.

Crim. Code, '12, § 569; Crim. Code, '02, § 412; R. S. 327; 1887, XIX, 800.

(497) § 41. **Penalty for Magistrate or Constable Neglecting to Enforce Vagrant Laws.**—If any Magistrate shall fail or neglect to execute any of the duties required of him by the vagrant laws of the State, he shall be liable to pay a penalty of fifty dollars; and any Constable neglecting or failing in his duty aforesaid shall be liable to pay twenty-five dollars, to be recovered by information before any Court of competent jurisdiction; one moiety to go to the informer and the other to the use of the county.

Crim. Code, '12, § 570; Crim. Code, '02, § 413; G. S. 1608; R. S. 328; 1787, V, 43.

(498) § 42. **Reports of Cases by Magistrates in Certain Cities—Penalty.**—Each Magistrate within counties containing cities of fifty thousand (50,000) inhabitants, or more, in the State of South Carolina, shall make and file with the County Supervisor each month a verified report of criminal cases begun before him and their status and disposition, together with a list of all fines collected. A list of the Magistrates, with a list of the fines collected by each Magistrate, shall be published quarterly by the County Supervisor, and the costs of said publication shall be disbursed out of the funds for ordinary county purposes. That said County Supervisor shall not pay any salaries to any Magistrate until he has made and filed the verified report herein required, and further, in default thereof, the Magistrate violating the provisions of this Section shall, on conviction, be liable to a fine not exceeding one hundred ($100.00) dollars or imprisonment in the county jail not exceeding two (2) months, at the discretion of the Court.

1917, XXX, 111.

(499) § 43. **Penalty for Failing to Execute Process of Magistrate's Court.**—Every Constable appointed by a Magistrate shall be bound to execute, when required, every lawful order, judgment and determination of the Magistrate and of any Magistrate's Court; and for disobedience herein he shall be liable to be indicted and punished as for a high misdemeanor.

Crim. Code, '12, § 571; Crim. Code, '02, § 414; G. S. 868; R. S. 329; 1835, XI, 81.

(500) § 44. **Punishment for Oppression, Etc.**—For oppression in office, whether by undue personal violence, cruelty, taking an amount of

property in unreasonable proportion to the sum to be collected, or for any wilful official misconduct, habitual negligence, habitual drunkenness, or fraud, when established to the satisfaction of a jury, upon indictment, a Constable shall be punished by imprisonment not exceeding one year and fined not exceeding one thousand dollars, at the discretion of the Court.

Crim. Code, '12, § 572; Crim. Code, '02, § 415; G. S. 869; R. S. 330; 1835, XI, 81.

(501) § 45. May be Removed from Office on Conviction.—Upon the conviction of any Constable by indictment, the Judge before whom the case may be tried shall have power, by order, to declare the convict to be removed from office, whereupon his office shall be deemed vacant.

Crim. Code, '12, § 573; Crim. Code, '02, § 416; G. S. 870; R. S. 331; 1835, XI, 81.

(502) § 46. Default in Returning Warrants, Etc.—Penalty.—In all cases in which Magistrates shall fail to lodge in the offices of the Clerks of the Court of their respective counties recognizances taken before them for the appearance of witnesses, defendants, or prosecutors, before the Court of General Sessions for such county, or information or other papers before them, and returnable to such Court, at least ten days before the meeting of said Court, and such default shall arise from the neglect or improper delay of the Constable or other officer charged with the execution of any warrant or other process pertaining to the Court of General Sessions, such Constable shall be subject to a fine of five dollars for every such default, if, upon a rule to show cause, he shall fail to excuse himself to the satisfaction of the Court.

Crim. Code, '12, § 574; Crim. Code, '02, § 417; G. S. 2565; R. S. 340; 1878, XVI, 584.

(503) § 47. Misdemeanor for Certain Officers to Discount Teachers' Pay Certificates.—It shall be unlawful for any County Treasurer, County Auditor, member of County Board of Education, or School Trustee, to buy, discount or share, directly or indirectly, or be in any way interested, in any teacher's pay certificate, or other order on school fund, except such as are payable to him for his own services, or for any School Trustee to make any contract, or be pecuniarily interested, directly, or indirectly, in any contract with any school district of which he is Trustee. If any of the officers aforesaid shall violate the provisions of this Section he shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall pay a fine of not less than one hundred dollars nor more than five hundred dollars, to be used for school purposes in his county, and shall be imprisoned not less than three months nor more than twelve months, or either or both, and shall forfeit the amount of such claim or of his interest in such claim.

Crim. Code, '12, § 575; Crim. Code, '02, § 418; R. S. 333; G. S. 2561; 1896, XXII, 150; 1900, XXIII, 366.

(504) § 48. School Officers Prohibited from Being Agent for School Books.—It shall be unlawful for any teacher of a school supported in whole or in part from the public school funds of this State, or any Trustee of any such school, or any other school officer, to become an active or silent agent of any school book publisher, or be in anywise pecuniarily interested in the introduction of any school book or books into any school in this

State. Any person violating any of the provisions hereof shall, upon conviction thereof, be deemed guilty of a misdemeanor, and be subject to a fine of not less than one hundred dollars, or imprisonment in the county jail for a period of not less than thirty days, or both, at the discretion of the Circuit Judge.

Crim. Code, '12, § 576; Crim. Code, '02, § 419; 1896, XXII, 170.

(505) § 49. County Superintendents of Education to Apportion School Funds Monthly Among School Districts.—Within ten days after the County Treasurer makes his monthly report to the County Superintendent of Education, showing the amount of money collected by him since his last monthly report, it shall be the duty of the County Superintendent of Education to apportion the money arising from a tax on property, as shown by the Treasurer's report, among the school districts of his county and to certify such apportionment to the County Treasurer, together with the poll tax belonging to each district as shown by said report; and it shall be the duty of the County Treasurer to enter upon his book to the credit of each school district the amount due each district according to such certificate of apportionment, and the County Treasurer shall pay out the money belonging to the respective districts, upon the school warrants of such districts, duly signed and countersigned by the school authorities, for that scholastic year in the order of their presentation, provided that there be no outstanding claims of the previous scholastic year; and the Comptroller General shall receive the warrants thus paid as proper vouchers in the hands of the County Treasurer.

The failure or refusal of a County Superintendent of Education or a County Treasurer to comply with the foregoing provisions, or any of them, shall constitute a misdemeanor, and, upon conviction thereof, he shall be subject to a fine of not more than one hundred dollars, or imprisonment in the county jail for not more than thirty days.

Crim. Code, '12, § 577; Crim. Code, '02, § 420; 1898, XXII, 761.

(506) § 50. County Superintendents to File Reports With State Superintendent of Education.—It shall be the duty of each County Superintendent of Education to file with the State Superintendent of Education within two months after the close of the scholastic year a full and accurate report of all the schools under his supervision. Any County Superintendent failing to make such report shall be guilty of a misdemeanor, and, upon conviction thereof in a Court of competent jurisdiction, shall be fined in the discretion of the Court in a sum not exceeding fifty dollars.

1913, XXVIII, 191.

(507) § 51. Teachers, Principals and Superintendents Required to File Reports.—Any teacher, principal or superintendent employed in the schools of this State, supported in whole or in part at public expense, shall file within two weeks after the close of the session of such school a full and accurate report, as now required by law. Any person neglecting, refusing or omitting to file such report when requested by the County Superintendent of Education shall be liable to the cancellation of his or

her certificate to teach, and to a fine of not more than twenty-five dollars, to be imposed at the discretion of the County Board of Education.
1913, XXVIII, 191.

(508) § 52. Reports of Private Schools to County Superintendents of Education.—Any and all private schools shall report to the County Superintendent of Education upon request therefor of the county wherein such school is located, the number of pupils receiving instruction, the number in regular attendance, the number of teachers employed, and such other facts as will show the grade and amount of educational work actually done in such private school. The management of such other private school neglecting, refusing or omitting to file such report within two weeks after the close of the regular session shall be subject to a fine of not more than twenty-five dollars.
1913, XXVIII, 191.

(509) § 53. Treasurer Not to Demand Commission on School Funds.—Any County Treasurer who shall demand or receive any commissions for paying out the school funds paid out by him from the person charged with receiving them, or shall charge any person commission on the same, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than fifty dollars for each such offense, or be imprisoned for a period not less than three months.
Crim. Code, '12, § 578; Crim. Code, '02, § 421; G. S. 2563; R. S. 334; 1876, XVI, 165.

(510) § 54. Acceptance or Exercise of Office of Auditor or Treasurer without Authority—Books, Etc., Not Turned over to Successor.—If any person shall, contrary to the statutes of this State regulating the appointment of the County Auditor and County Treasurer, accept the Office of County Auditor or Treasurer, or shall hold or exercise, or attempt to hold or exercise, any such office, or fail, when application is made to him by his successor, to turn over all books, papers and property of all kinds whatsoever pertaining to said office; or if any County Treasurer, County Auditor, or member of any County Board of Equalization, shall neglect, refuse or evade the performance of the duties imposed upon him by law regulating the assessment and collection of taxes; or if any County Auditor shall neglect or refuse to comply with the requirements of the law in the making up of his duplicate, or shall fail to file with the Comptroller General the abstracts, vouchers and settlement sheets within the time required by law; if any County Treasurer, after being notified of his removal or suspension from office, shall fail to settle with the County Auditor and the Comptroller General, and pay over all State and County moneys in his hands to the officers entitled by law to receive the same, within ten days after being so notified, he shall be deemed, and is hereby declared to be guilty of a misdemeanor, and, upon trial and conviction thereof, he shall be punished therefor by fine not exceeding five thousand dollars, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the Court.
Crim. Code, '12, § 579; Crim. Code, '02, § 422; G. S. 223; R. S. 335; 1882, XVII, 1008.

(511) § 55. Treasurer to Keep Amount of Poll Tax—Penalty.—The several County Treasurers shall retain all the poll tax collected in their respective counties; and it is hereby made the duty of the said County Treasurer, in collecting the poll tax, to keep an account of the exact amount of said tax collected in each school district in his county; and the City of Charleston, for the purpose of this Section, shall be deemed a school district, and the County Treasurer shall pay over to the City Board of School Commissioners the amount of poll tax collected in said city; and the poll tax collected therein shall be expended for school purposes in the school district from which it was collected; and any violation of this Section by the County Treasurer shall constitute, and is hereby declared, a misdemeanor, and, on conviction thereof, the said County Treasurer shall pay a fine of not less than five hundred dollars nor more than five thousand dollars, to be used for school purposes in the county suffering from such violation, or imprisonment in the discretion of the Court.

Crim. Code, '12, § 580; Crim. Code, '02, § 423; G. S. 1021; R. S. 336; 1878, XVI, 582.

(512) § 56. Treasurer to Report to School Commissioner.—He shall, on the fifteenth day of each month, report to the School Commissioner of his county the amount of collections and disbursements made by him for the month on account of poll tax and all other school funds; and it shall be a misdemeanor on the part of any County Treasurer to neglect, fail or refuse to make such report, and, on conviction thereof, he shall pay a fine of not less than five hundred dollars, the same to be used for school purposes in the county.

Crim. Code, '12, § 581; Crim. Code, '02, § 424; G. S. 1022; R. S. 337; 1878, XVI, 584.

(513) § 57. County Treasurer to Make Report to State Superintendent.—Each County Treasurer shall make out and forward to the State Superintendent of Education annually, on the first day of November, a certified statement showing (by school districts) the amount of poll tax and the amount of all other school taxes collected by him for the fiscal year ending on the 31st day of December next preceding; and should any County Treasurer fail or neglect or refuse to make and forward the statement as herein required, the State Superintendent of Education shall make a written complaint to the Circuit Solicitor for the county in which the said Treasurer resides, who shall prosecute the said County Treasurer for the same, and, on conviction thereof, he shall be subject to a fine of not more than five hundred dollars, the same to be used for free public school purposes in his county.

Civ. '12, § 1774; Civ. '02, § 1225; 1896, XXII, 165.

(514) § 58. Auditor to Report Polls, Etc.—Penalty.—It shall be the duty of each Auditor to state, in a separate column, the school district in which the taxpayer resides. At the expiration of the time prescribed by law to receive returns he shall make out and forward to the Board of Trustees of each school district within his county a correct list of the polls returned from their respective districts. When the School Trustees have reported to him the names of all persons who have failed or neglected to make returns, it shall be his duty to enter upon his books the names of all

persons thus reported to him, and he shall enter the names of said persons upon the tax duplicate furnished the County Treasurer. And any Auditor failing to comply with either or all of the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction before a Court of competent jurisdiction, shall be fined in a sum of not more than one hundred dollars, or be imprisoned for a term not exceeding thirty days.

Crim. Code, '12, § 583; Crim. Code, '02, § 426; R. S. 339; 1890, XX, 718; 1891, XX, 1049; 1892, XXI, 18.

(515) § 59. **County Officers Not to Issue Certificate of Debt.**—It shall not be lawful for any State or county officer to issue any certificate of indebtedness: *Provided,* That this shall not apply to issuing of tickets to jurors or witnesses for their attendance upon the Circuit Courts.

Crim. Code, '12, § 584; Crim. Code, '02, 427; G. S. 2565; R. S. 340; 1878, XVI, 584.

(516) § 60. **Exercising Office of Trustee After Removal—Penalty.**—If a Trustee of any school district, shall attempt to act or discharge the duties of either of said offices after he has been removed, or after his successor shall have qualified, he shall be deemed guilty of a misdemeanor, and, after conviction, be punished by a fine of not less than one hundred and one dollars, or imprisonment for not less than thirty days, or both, at the discretion of the Court.

Crim. Code, '12, § 585; Crim. Code, '02, § 428; G. S. 1024; R. S. 341; 1878, XVI, 584.

(517) § 61. **Failure of School Commissioner or County Treasurer to Keep "General Cash Account."**—The failure of any School Commissioner or any County Treasurer of this State, to keep a book of entry, in which shall be kept an account known as "general cash account," as required by law, shall be deemed a misdemeanor, and, on conviction thereof, he shall be subject to a fine of not less than two hundred dollars, or imprisonment in the county jail for a period of not less than six months.

Crim. Code, '12, § 586; Crim. Code, '02, § 429; G. S. 342; 1892, XXI, 81.

(518) § 62. **Removal of Certain Patients from State Hospital for Insane.**—County Boards of Commissioners, or the municipal authorities of the City of Charleston, failing or refusing to remove from the State Hospital for the Insane, after thirty days notice from the Superintendent thereof, a patient, a beneficiary from their county or their city, as the case may be, who is simply physically or mentally infirm, or is a harmless imbecile, idiot or epileptic, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the discretion of the Court, and the bond of such County Board of Commissioners shall be liable for the fine.

Crim. Code, '12, § 587; Crim. Code, '02, § 430; R. S. 343; 1884, XVIII, 828.

(519) § 63. **Penalty for Committing Persons to State Hospital for Insane Without Physician's Certificate.**—Any Probate Judge committing to the State Hospital for the Insane a person without a medical certificate conforming to the requirements of the law, or a pauper lunatic not a

bona fide resident of this State, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined, in the discretion of the Court.

Crim. Code, '12, § 588; Crim. Code, '02, § 431; 1884, XVIII, 827; 1893, XXI, 481. 509.

(520) § 64. Physicians Not to Recommend Commitment of Idiots, Etc., Unless Violent.—Physicians giving a certificate recommending the commitment to the State Hospital for the Insane of a person who is simply idiotic, epileptic, physically infirm, or mentally imbecile, unless such person is violent or dangerous, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the discretion of the Court.

Crim. Code, '12, § 589; Crim. Code, '02, § 432; R. S. 345; 1884, XVIII, 827.

(521) § 65. Jury Commissioners Guilty of Fraud.—If any member of the Board of Jury Commissioners shall be guilty of fraud, either by practicing on the jury box previously to a draft, or in drawing a juror, or in returning into the jury box the name of any juror which had been lawfully drawn out, and drawing or substituting another in his stead, or in any other way in the drawing of jurors, he shall be punished by a fine not exceeding five hundred dollars, or be imprisoned not exceeding two years in the State Penitentiary.

Crim. Code, '12, § 590; Crim. Code, '02, § 433; G. S. 2238; R. S. 346; 1871, XIV, 694.

(522) § 66. Unlawful for Any Supervisor or County Commissioner to Sell to County.—It shall be unlawful for any Supervisor or any member of any Board of County Commissioners, during his term of office, to sell for public use to his county any lumber, stock, tools, materials or supplies of any description whatsoever, or to purchase from any corporation in which he holds stock.

Any person violating this Section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or imprisoned for a term of not less than thirty days nor more than six months on the public works of the county.

Crim. Code, '12, § 591; 1906, XXV, 113.

(523) § 67. Penalty for Neglect of Duty as to Crossings by Supervisors.—If any of the County Supervisors neglect or fail to comply with any of the provisions of Chapter LII, Civil Code, applicable to County Supervisors, the County Supervisor so offending shall be liable to be indicted for neglect of duty, and, on conviction, fined in a sum not less than one hundred dollars nor more than five hundred dollars, and as a part of the judgment his office shall be declared vacant.

Civ. '12, § 3239; Civ. '02, § 2148; G. S. 1497; R. S. 1701; 1882, XVII, 826.

(524) § 68. Negligence of Officer. For any wilful violation or neglect of duty, malpractice, abuse or oppression, in towns or cities of over 1,000 inhabitants, the Mayor or Aldermen so offending shall be liable to punishment by a fine not exceeding one hundred dollars or im-

prisonment not exceeding thirty days, besides, being liable for damages to any person injured by such neglect, malpractice, abuse or oppression.

Civ. '12, § 2957; Civ. '02, § 1991; 1896, XXII, 67; 1901, XXIII, 649.

(525) § 69. Failure of Fire Inspector to Do Duty a Misdemeanor —Penalties.—If the inspector shall fail to perform the duties required of him by law, or shall give a certificate of inspection without first making the inspection required by law, or shall improperly give a certificate of inspection, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding fifty dollars, or may be discharged from office.

1920, XXXI, 910.

(526) § 70. Hours of Firemen in Certain Cities—Penalty.—Any Mayor, Alderman, Intendant, Commissioner or member of any City or Town Council who violates the terms of Section (4650), Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than one hundred ($100.00) dollars, nor more than five hundred ($500.00) dollars, or shall be imprisoned not less than thirty (30) days nor more than six (6) months.

1919, XXXI, 648; 1920, XXXI, 784.

(527) § 71. Municipal Officers in Certain Cities, Abuse of Office, Etc.—For any wilful violation or neglect of duty, malpractice, abuse or oppression, the Mayor or Aldermen in cities of over five thousand inhabitants so offending shall be liable to punishment by fine not exceeding one hundred dollars, or imprisonment not exceeding thirty days, besides being liable for damages to any person injured by such neglect, malpractice, abuse or oppression.

Crim. Code, '12, § 596; Crim. Code, '02, § 434; 1901, XXIII, 657.

(528) § 72. Penalty on Officers of Certain Cities Interested in Contracts, Etc.—Any violation of the provisions of Section (4730), Civil Code, shall be a misdemeanor, punishable by a fine of not less than one hundred ($100.00) dollars nor more than five thousand ($5,000.00) dollars, or by imprisonment for not less than one (1) month nor more than five (5) years: *Provided, however,* That the policemen and firemen, in uniform, shall have the right to free transportation upon any street railway within the limits of said city.

Civ. '12, § 3083; 1911, XXVII, 25; 1914, XXVIII, 571.

(529) § 73. Violation of Provisions as to Officers of Certain Cities. —Any violation of any of the provisions of Section (4746), Civil Code, shall be punished by fine not exceeding five hundred dollars or imprisonment not exceeding one year.

Civ. '12, § 3089; 1910, XXVI, 523.

(530) § 74. Deposit of Official Funds by the State, County and Municipal Officers Regulated.—All State, county and municipal officers depositing funds at interest in any bank or other depository shall account to the State, county or municipality, as the case may be, for all interest collected upon such deposits.

Any violation of this Section is declared a misdemeanor, punishable by fine or imprisonment, in the discretion of the Court.

1915, XXIX, 56.

(531) § 75. Convicts to Be Given Credit on Terms for Good Behavior.—Any person, now or hereafter, serving a sentence imposed by any Court of competent jurisdiction for six months or more, life sentence excepted, either in the State Penitentiary or any county jail, or upon the public works of any county, shall be entitled to have one-tenth of such sentence deducted at the end thereof for good behavior.

2. Penalty.—Any officer having charge of such convict, who shall refuse to allow such deduction in time of serving sentence, shall be guilty of a misdemeanor, and shall, upon conviction, suffer imprisonment for not less than thirty days, or pay a fine of not less than one hundred dollars.

1914, XXVIII, 617.

(532) § 76. Payment of Fines in Barnwell County—Acceptance of a Fine by Any Officer Other Than the Clerk of Court a Misdemeanor.—It shall be a misdemeanor for any officer of Barnwell County except the Clerk of the Court of General Sessions or his deputy, to accept payment of a fine or any part thereof, either as agent of the party paying the same or otherwise and all fines shall be paid direct to the said Clerk of Court: *Provided,* That prior to the commencement of actual service of sentence and prior to service of notice of appeal from judgment or sentence of a Magistrate such Magistrate may accept payment of fines imposed in his Court.

1916, XXIX, 965.

(533) § 77. In Greenwood County Fine in Certain Cases to Be Paid to Magistrates Who Are to Issue Discharges—Proviso.—It shall be unlawful in Greenwood County for the County Supervisor, Sheriff or other officer in charge of the county chaingang or county jail, to release any convict who has been sentenced to the county chaingang or the county jail with the alternative of a fine and has begun the service of said sentence on the said chaingang or in the said jail, upon the payment of the fine imposed unless the said fine be paid to the committing Magistrate and a discharge of said convict be issued by said Magistrate: *Provided,* That in cases arising in the Court of General Sessions the fine shall be paid to and the discharge issued by the Clerk of Court.

1916, XXIX, 745.

(534) § 78. Rural Policeman Not to Collect Fees in Certain Cases.—It shall be unlawful for any Rural Policeman in this State to accept or receive any fee or reward for making any collection of any debt, or foreclosing any chattel mortgage, bill of sale or any other lien, or for compromising criminal cases.

2. Penalty—May Collect Delinquent Taxes.—Any Rural Policeman within this State who shall violate the provisions of this Section shall be subject to a fine of not less than $25 nor more than $100, or imprisonment for a period of not less than 20 days nor more than 30 days, and shall

have his commission revoked by the officer issuing same: *Provided,* Nothing shall prohibit any Rural Policeman from collecting delinquent taxes.
1916, XXIX, 656.

(535) § 79. Clerk to Have Charge of the Court House—Penalty for Keeping Open at Night.—Every Clerk shall have charge of the Court House within his county; open the same, when required for public use, and at all other times keep it closed; and for every night any Court House shall be kept open, the Clerk shall be liable to a penalty of five dollars, for the use of the county, to be recovered by indictment.
Civ. '12, § 1307; Civ. '02, § 909; G. S. 730; R. S. 781; 1839, XI, 101, § 6.

(536) § 80. Penalty for Failure to Satisfy Mortgage.—Any Clerk or other officer wilfully violating Section (5230), Civil Code, shall, on conviction, be fined not more than one hundred ($100.00) dollars, or be imprisoned not more than thirty days, in the discretion of the Court, and it shall be the duty of the Solicitor of each Circuit to see that the law is complied with or to forthwith prosecute the violators.
Civ. '12, § 3466; 1910, XXVI, 587; 1911; XXVII, 164; 1912, XXVII, 628.

(537) § 81. Duty of County Treasurer of Clarendon County—Neglect a Misdemeanor.—The County Treasurer shall collect and receipt for the tax in Section (1260) of the Civil Code, as provided for, and his failure, refusal or neglect to do so shall be deemed a misdemeanor and punishable by fine or imprisonment, in the discretion of the Court, in addition to the penalties now provided by law.
1921, XXXII, 59.

(538) § 82. Overcharge by Cotton Weighers for Saluda County a Misdemeanor—Penalty.—Any Cotton Weigher in Saluda County charging as compensation for his services in weighing cotton in excess of the amount fixed in Section (3361) of the Civil Code shall be, for each offense, deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum of not less than five ($5.00) dollars nor more than twenty-five ($25.00) dollars, or imprisoned for not more than thirty (30) days.
1921, XXXII, 260.

(539) § 83. Municipal Officers Interested in Certain Contracts and Receiving Certain Favors.—No officer or employee elected or appointed in any city of more than twenty thousand and less than fifty thousand inhabitants, which shall have adopted the form of government prescribed in Article IX, Chapter LI, of Volume III, Code of Laws of South Carolina, shall be interested, directly or indirectly, in any contract or job for work or materials or the profits thereof, or any services to be furnished or performed for the city, or for any person, firm or corporation operating interurban or street railways, waterworks, gas works, electric light or power plant, heating plant, telegraph or telephone system, or other public utility within the territorial limits of said city or doing business or proposing to do business in said city. No such officer or employee shall accept or receive, directly or indirectly, from any person, firm or corporation operat-

ing within the territorial limits of said city any such public utilities company or other business under a public franchise, any frank, free tickets or free service, or any other service upon terms more favorable than are granted to the public generally, or request or induce the granting of any such favor to any other person. Any violation of the provisions of this Section shall be a misdemeanor, punishable by a fine of not less than one hundred ($100) dollars nor more than five thousand ($5,000) dollars, or by imprisonment for not less than one (1) month nor more than five (5) years: *Provided, however,* That the policemen and firemen in uniform shall have the right to free transportation upon any street railway within the limits of said city.

Crim. Code, '12, § 275; 1910, XXVI, 531.

(540) § 84. Penalty for Violation by County Supervisor of Civil Code, Sections (130) to (144).—Any County Supervisor failing or refusing to comply with the provisions of Sections (130) to (144) of the Civil Code, as to the insurance of public buildings, shall be guilty of a misdemeanor, and, upon conviction thereof, he shall be fined in a sum not less than fifty dollars nor more than one hundred dollars, or imprisoned not less than twenty nor more than thirty days.

Crim. Code, '12, § 592; 1902, XXIII, 967.

(541) § 85. Failure to Furnish Reports.—The failure of any of the Supervisors or County Commissioners to publish quarterly reports, required by Section (1067) of the Civil Code, shall be a misdemeanor, punishable by fine or imprisonment, or both, within the discretion of the Court.

Crim. Code, '12, § 594; 1902, XXIII, 983.

(542) § 86. Violation by Officer of Hampton County of Governmental Duties.—Any County Commissioner or other officer of Hampton County, who shall violate the provisions of Sections (1619) to (1627), both inclusive, of the Civil Code, relating to the County Government of Hampton County, shall be deemed guilty of a misdemeanor, and shall be removed from his office by the Governor of this State and, upon trial and conviction, shall be punished by a fine of not less than two hundred dollars, or by imprisonment for not less than three months.

Crim. Code, '12, § 595; 1908, XXV, 1207.

(543) § 87. Penalty for Refusal or Neglect of Overseer to Perform Duties.—Each and every overseer who shall neglect or refuse to perform the several duties enjoined on him by law, or who shall, under any pretense whatever, give or sign any receipt or certificate purporting to be a receipt or certificate for labor in work performed, or money paid, unless the labor shall have been performed or money paid prior to giving or signing of such receipt or certificate, shall forfeit for every such offense not less than ten dollars nor more than fifty dollars, to be recovered by an action before any Magistrate of the county having jurisdiction; and it is hereby made the duty of the Township Board of Commissioners to prosecute all offenses against the provisions of this Section: *Provided,* That if any overseer conceives himself aggrieved by the judgment of such Mag-

istrate, he may, on giving sufficient security, in double the sum of the judgment found against the party offending, to said Magistrate for the payment of the cost, appeal to the Court of Common Pleas, which shall make such order therein as to it may appear just and reasonable.

Crim. Code, '12, § 646; 1896, XXII, 234; 1902, XXIII, 1006.

(544) § 88. Printing Clerk—Punishment for Misconduct.—If the Printing Clerk, in any manner, directly or indirectly, violate the provisions of Section (50), Civil Code, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, he shall be fined or imprisoned in the discretion of the Court.

1916, XXIX, 709.

(545) § 89. Penalty for Misuse of Appropriations in Barnwell County.—Any person or officer violating Section (1220), Civil Code, shall be subjected to the penalty imposed by Section (457) of the Code of Laws of South Carolina, 1922, Volume II (Criminal Code): *Provided, further,* That in the disbursement of the general or contingent fund, the consent of the Senator and majority of the members of the House of Representatives shall first be obtained.

1916, XXIX, 847.

(546) § 90. Failure to Apportion and Properly Disburse Road Tax.—Any person who shall violate the provisions of Section (2939) of the Civil Code, in reference to the apportionment and disbursement of special road taxes, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than five dollars nor more than thirty dollars or by imprisonment for not less than ten days nor more than thirty days for each and every offense, either or both, at the discretion of the Court.

Crim. Code, '12, § 632; Crim. Code, '02, § 456; 1897, XXII, 421; 1898, XXII, 739.

(547) § 91. Duties of Health Officer of Greenville County.—Any person or persons not complying with the provisions of Sections (2328) to (2331), Civil Code, shall be subject to a fine of not less than five ($5.00) dollars and not more than ten ($10.00) dollars, or be made to serve not less than five days and not more than fifteen days on the county chaingang.

1918, XXX, 747.

(548) § 92. Penalty for Violating Laws as to Sinking Fund in Union County.—For refusing to carry out any of Sections (1973) to (1992), Civil Code, relating to the Sinking Fund Commission, the officer so refusing shall be guilty of a misdemeanor, and, on conviction, shall forfeit his office and also be punished by imprisonment of not exceeding five years in the State Penitentiary, or by fine not exceeding $1,000.

1912, XXVII, 756.

(549) § 93. Penalty for Breach of Trust by Sinking Fund Commission in Union County.—For any breach of the trust in Sections (1973) to (1992), Civil Code, created, the Commissioners found guilty shall be pun-

ished not exceeding five years in the State Penitentiary, or by fine not exceeding $5,000.

1912, XXVII, 756.

(550) § 94. When County Commissioner of Beaufort County Guilty of Misdemeanor.—If, in the judgment of said Board of County Commissioners, any such person, firm or corporation shall sell any alcoholic liquors, in violation of law, if such violation shall be proved in any Court, the said Board of County Commissioners shall revoke the license of said person, firm or corporation. Any member of said Board who shall refuse or fail to carry out the provisions of Article III, Chapter XLIV, Civil Code, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined at the discretion of the trial Judge.

1913, XXVIII, 343; 1914, XXVIII, 530; 1915, XXIX, 576.

(551) § 95. Certain Claims Not to Be Paid in Beaufort County—Penalty.—The Supervisor of the County of Beaufort shall not draw his warrant on the County Treasurer to pay any claim which may be approved by a Board of County Commissioners, any of whom have been appointed without the recommendation and approval of the Senators and members of the House of Representatives of said county. Any violation of this provision by the Supervisor of Beaufort County is hereby declared to be a misdemeanor, and, on conviction thereof, the Supervisor shall be punished by a fine of not exceeding two hundred dollars or by imprisonment not exceeding one year, or by both, in the discretion of the Court.

1912, XXVII, 560.

(552) § 96. Misdemeanor for Overseer to Fail to Perform Duties in Barnwell County.—Any one who accepts the position of overseer in Barnwell County, and when directed by the Commissioners, shall fail or refuse to perform his duties as overseer, shall be guilty of a misdemeanor, and, upon conviction, be sentenced to pay a fine of not less than ten dollars nor more than fifty dollars, or be confined at hard labor upon the public works of the county for a period of thirty days.

Civ. '12 § 1992; 1911, XXVII, 175.

(553) § 97. Misdemeanor for Officer of Cherokee County to Violate Provisions of Civil Code.—Any County Commissioner, the Supervisor or other officer herein mentioned, who shall violate any of the provisions of Sections (1310) to (1315), Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by fine of not less than one hundred dollars or to imprisonment not over thirty days, and, upon the recommendation to do so by a majority of the County Delegation in the General Assembly, such Township Commissioner shall be removed from office by the Governor.

1913, XXVIII, 122; 1914, XXVIII, 628; 1918, XXX, 817.

(554) § 98. Penalty for Officer of Fairfield County Failing to Report.—Any failure or refusal to make reports required by Section (1508), Civil Code, by such officers is hereby declared to be nonfeasance in office;

and upon conviction therefor the offender shall be punished by fine or imprisonment in the discretion of the Court.

1919, XXXI, 56.

(555) § 99. Penalty for Overseers in Lexington County.—Any road overseer in said county when appointed as provided in Sections (1723) to (1727), Civil Code, who shall fail, refuse or neglect to perform the duties required of him under the provisions of said Sections upon conviction shall pay a fine of not less than ten dollars or more than twenty-five dollars, or be imprisoned on the public works of Lexington County for a period of not less than ten days nor more than thirty days.

1913, XXVIII, 168.

(556) § 100. County Supervisor of Jasper County to Publish Statement of Claims Paid—Noncompliance a Misdemeanor—Penalty.—The Supervisor of Jasper county be, and he is hereby, required to publish, quarterly, an itemized statement of all claims paid by Jasper county in some paper published in Jasper County: *Provided,* That if there is no paper published in Jasper County the Supervisor of said county be, and he is hereby, required to mail, quarterly, said statement to each and every qualified elector in said county. The Supervisor is hereby empowered to pay the expenses of the publishing or mailing of such statement, as the case may be, out of the funds of the county. If the Supervisor shall fail to comply with the provisions of this Section he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred ($500.00) dollars nor more than one thousand ($1,000.00) dollars.

1921, XXXII, 48.

(557) § 101. Unlawful for Disbursing Officers to Exceed or Transfer Appropriations—Proviso—Violation Misfeasance—Suspension by Governor—Penalty Upon Conviction.—It shall be unlawful for any officer, clerk, or other person charged with disbursements of funds appropriated by the Legislature of South Carolina, either county funds or State funds, to exceed the amounts and purposes stated in said appropriations, or to change or shift appropriations from one item to another: *Provided,* That transfers may be authorized by the General Assembly in any County Supply Act or the annual Appropriation Act for the State. Any officer, clerk, or other person violating the provisions of this Section shall be deemed guilty of malfeasance in office, and the Governor may, upon his attention being brought to same, at once suspend said officer and shall investigate the conduct of same, and, if found guilty, he shall be suspended by the Governor, and in addition to such suspension, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned within the discretion of the Court.

1921, XXXII, 117.

CHAPTER X.

Cruelty to Animals.

(558) § 1. Cruelty to Animals.—Whoever shall wilfully abuse or cruelly treat any horse, mule, or draught animal or beast of burden, shall, upon conviction thereof before any Court of competent jurisdiction, suffer imprisonment for fifteen days, or pay a fine of fifteen dollars.

Crim. Code, '12, § 909; Crim. Code, '02, § 623; G. S. 2525; R. S. 505; 1878, XVI, 492.

(559) § 2. Illtreatment of Animals.—Whoever overloads, overdrives, overworks, tortures, torments, needlessly mutilates, cruelly kills, illtreats, or whoever deprives of necessary sustenance or shelter, or whoever inflicts unnecessary pain or suffering upon any animal, or whoever causes the same to be done, whether such person be the owner thereof or have the charge or custody of the same, shall, for every such offense, be guilty of a misdemeanor, and be punished by imprisonment in jail not exceeding thirty (30) days, or by a fine not exceeding one hundred dollars.

Crim. Code, '12, § 910; Crim. Code, '02, § 625; G. S. 1703; R. S. 507; 1881, XVII, 573; 1883, XVIII, 388.

(560) § 3. Cruel Work, Abandonment, Etc., Misdemeanor.—Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or cruelly abandons the same, or who carries the same, or causes the same to be carried, in or upon any vehicle, or otherwise, in an unnecessarily cruel or inhuman manner, or knowingly or wilfully authorizes, or permits the same to be subjected to unnecessary torture, suffering, or cruelty of any kind, shall, for every such offense, be guilty of a misdemeanor, and shall be punished for every such offense in the manner prescribed in Section (559).

Crim. Code, '12, § 911; Crim. Code, '02, § 626; G. S. 1704; R. S. 508; 1881, XVII, 573.

Convicted on evidence from which it might be inferred the owner permitted an animal to be cruelly worked, with knowledge that it was then unfit for labor. State *v.* Browning, 70 S. C. 466, 50 S. E. 185.

(561) § 4. Overloading and Confinement of Animals on Railroad Cars.—No railroad company, in the carrying or transportation of animals, shall overload the cars, nor permit the animals to be confined in cars for a longer period than twenty-eight consecutive hours, without unloading the same for rest, water, and feeding, for a period of at least five consecutive hours, unless prevented from so unloading by storm or other accidental causes beyond the control of such railroad company. In estimating such confinement, the time during which the animals have been confined without such rest on connecting roads from which they are received shall be included; it being the intent of this Chapter to prohibit their continuous confinement beyond the period of twenty-eight hours, except upon contingencies hereinbefore stated. Animals so unloaded shall be properly fed, watered and sheltered during such rest by the owner or person having the custody thereof, or in case of his default in so doing, then by the railroad company transporting the same, at the expense of the owner or person in custody thereof; and the said company shall, in such case, have

a lien upon such animals for food, care, and custody furnished, and shall not be liable for any detention of such animals authorized by this Chapter. Any company, owner, or custodian of such animals, who shall fail to comply with the provisions of this Section, shall, for each and every such offense, be liable for and forfeit and pay a penalty of not less than fifty nor more than five hundred dollars, in any Court of competent jurisdiction: *Provided, however,* That when animals shall be carried in cars in which they can and do have proper food, water, space and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply.

Crim. Code, '12, § 912; Crim. Code, '02, § 627; G. S. 1705; R. S. 509; 1881, XVII, 573.

(562) § 5. Arrest for Violation Made With or Without Warrant.—Any person violating the laws in relation to cruelty to animals may be arrested and held, without warrant, in the same manner as in the case of persons found breaking the peace; and the person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owner of the animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same: *Provided,* The owner shall take charge of the same within fifteen days from the date of such notice. And the person making such arrest shall have a lien on said animals for the expense of such care and provision.

Crim. Code, '12, § 913; Crim. Code, '02, § 628; G. S. 1706; R. S. 510; 1881; XVII, 574.

(563) § 6. When Search Warrant May Be Issued.—When complaint is made on oath or affirmation, to any Magistrate authorized to issue warrants in criminal cases, that the complainant believes, and has reasonable cause to believe, that the laws in relation to cruelty to animals have been or are being violated in any particular building or place, such Magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any Sheriff, Deputy Sheriff, Deputy State Constable, Constable, or Police Officer, to search such building, or place; but no such search shall be made after sunset, unless specially authorized by the Magistrate, upon satisfactory cause shown.

Crim. Code, '12, § 914; Crim. Code, '02, § 629; G. S. 1707; R. S. 511; 1881, XVII, 574.

(564) § 7. Meaning of "Animal" and "Owners."—In this Chapter the words "animal" or "animals" shall be held to include all brute creatures; and the words "owner," "person" and "whoever" shall be held to include corporations as well as individuals; and the knowledge and acts of agents of, and persons employed by, corporations in regard to animals transported, owned or employed by or in the custody of such corporations shall be held to be the acts and knowledge of such corporation.

Crim. Code, '12, § 915; Crim. Code, '02, § 630; G. S. 1708; R. S. 512.

(565) § 8. Officers to Arrest Persons Accused of Cruelty to Animals.—It shall be the duty of all Sheriffs, Deputy Sheriffs, Deputy State Con-

stables, Constables and Police Officers, and one Deputy for each Township, who shall be appointed by the Sheriff of each county, to prosecute all violations of the provisions of this Chapter which shall come to their notice or knowledge, and the Township Deputy shall have the illtreated or injured animal in evidence at the prosecution, when brought by him, and he shall have authority to bring, or cause to be brought, such animal or animals; and all fines collected upon complaint or information for violation of this Chapter, shall inure and be paid over, one-half to the South Carolina Society for the Prevention of Cruelty to Animals, in aid of the benevolent objects for which it was incorporated, and in case such prosecution is brought by the Township Deputy, one-half of the fund collected shall be paid to him, and the other one-half to the county for general county expenses, except in towns or cities where there is a Society for the Prevention of Cruelty to Animals, when one-half goes to the said society as aforesaid provided.

Crim. Code, '12, § 916; Crim. Code, '02, § 631; G. S. 1709; R. S. 513; 1905, XXIV, 952.

(566) § 9. Fines, Penalties, Costs, a Lien.—All penalties, fines and costs incurred by reason of violations of Section (559) to (562), inclusive shall constitute and be a lien upon such animal or animals so cruelly used.

Crim. Code, '12, § 917; Crim. Code, '02, § 632; G. S. 1710; R. S. 574; 1881, XVII, 575.

(567) § 10. Authority of Society for Prevention of Cruelty to Animals to Destroy Animals.—A person, being the owner or possessor, or having charge or custody, of a maimed, diseased, disabled or infirm animal, in any town or city of this State, who abandons such animal or leaves it to die in a street, road, highway or public place, more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars, or imprisonment not exceeding thirty days. Any agent or officer of the South Carolina Society for the Prevention of Cruelty to Animals, and any society duly incorporated for that purpose, may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing the judgment of two reputable citizens called by him to view the same in his presence, to be glandered, injured or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal or any vehicle drawn by or containing any animal, any agent of said society may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place of custody, or deliver the same into the possession of the police or Sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be lien thereon.

Crim. Code, '12, § 918; Crim. Code, '02, § 633; 1899, XXIII, 99; 1907, XXV, 484.

CHAPTER XI.

Violation of the Provisions in Regard to Highways.

(568) § 1. Highway Suddenly Obstructed.—When any highway shall be suddenly obstructed by storm or otherwise, so as to require immediate labor to remove said obstruction, if any person liable to work on highways, after being summoned for the purpose of removing such obstruction by the order of the overseer, shall neglect to turn out and assist in opening and repairing such highways, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any Magistrate's Court, shall be fined three dollars per day, said fine to be collected and expended in the repair of highways where and when necessary in his district.

Crim. Code, '12, § 597; Crim. Code, '02, § 435; G. S. 1086; R. S. 347.

(569) § 2. Penalty for Not Furnishing Toll Bridges With Lights.—Every toll bridge within this State shall be furnished at night, by the owners of the franchise or the keepers of the said bridges, respectively, with sufficient light or lights to enable persons traveling over the same to see their way and to avoid danger.

Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor.

Crim. Code, '12, § 599; Crim. Code, '02, § 437; G. S. 1111; R. S. 349; 1881, XVII, 579.

(570) § 3. Persons Not to Transport Passengers Within Mile of Established Ferry—Proviso—Penalty.—If any person or persons living within the space of one mile of any established ferry in any part of this State shall, for any fee, toll or reward whatsoever, transport any person, goods or cattle from one side only to the other of that river where any such established ferry shall be kept, the person taking any such fee, toll or reward shall forfeit and pay to the proprietor of the ferry next adjacent to the place where such fare was taken up, treble the value of the fee, toll or reward given, paid or promised, to be recovered by warrant, under the hand and seal of one Magistrate, or be imprisoned in the county jail for a period of not exceeding thirty days, any law, usage or custom to the contrary notwithstanding: *Provided, always,* That in case any passenger shall be detained more than half an hour at any such ferry, then any persons living near such ferries may be at liberty to transport them, anything herein to the contrary notwithstanding.

Crim. Code, '12, § 614; Crim. Code, '02, § 440; G. S. 1124; R. S. 351; 1741, XI, 123; 1875, XV, 898.

(571) § 4. Misdemeanor to Delay Passenger One Hour at Ferries.—All managers and keepers of public ferries shall afford applicants immediate passage across the ferry at all hours, day and night, at the usual fees and charges. Every ferryman or ferry keeper of any public ferry, who, by absence from the ferry, or by negligence, cause the detention and delay, at the ferry, of any *bona fide* applicant for passage at such ferry for the space of one hour or more, shall, upon conviction, be deemed guilty of a misdemeanor, and shall, upon conviction, be fined five dollars, or im-

prisoned thirty days, for each offense: *Provided,* This Section shall not apply to steam or free ferries.

Crim. Code, '12, § 616; 1904, XXIV, 444.

(572) § 5. Proprietors of Bridges Liable to Indictment for Not Keeping Up Their Work—Penalties Recovered—How to Be Applied.—The proprietor or proprietors of every bridge or turnpike road now constructed, or hereafter to be constructed by the authority of the Legislature, shall be liable to indictment at common law for not keeping their respective works in such condition as to answer the ends of their creation. All the penalties which may be recovered for offenses against owners of bridges or turnpikes shall be paid one-half to the informer and the other half to the corporation or individual or individuals owning the works respecting which the said offenses shall have been committed.

Crim. Code, '12, § 618; Crim. Code, '02, § 443; G. S. 1131, 1132; R. S. 354; 1827, VI, 315.

Requires bridge to be kept in condition to meet traffic now to be expected. State *v.* Charleston Bridge Co., 113 S. C. 116, 101 S. E. 657; Sentence—*Ib.* 115 S. C. 234, 105 S. E. 349.

(573) § 6. Fine for Neglect of Posting Rates of Charges, Etc.—Managers and attendants of all public ferries and bridges having the privilege by law to charge toll for the passage of persons, animals, vehicles or other goods, shall cause the rates chargeable for such passage to be posted in legible letters or characters in some conspicuous place, stating the amount to be paid, so as to be read for information without inconvenience, at the approach to such ferry or bridge. Any neglect of the duties prescribed in this Section, or any toll exacted at higher rates than may be allowed by law, shall, upon conviction of the parties so neglecting before any Magistrate, be punishable by a fine of not less than ten nor more than fifty dollars, which fine shall be paid to the Treasurer of the county for the use of the county where such ferry or bridge may be situated.

Crim. Code, '12, § 619; Crim. Code, '02, § 444; G. S. 1136; R. S. 355; 1783, IX, 274; 1814, IX, 478; 1822, IX, 520; 1823, IX, 528; 1869, XIV, 206.

(574) § 7. Fords Not to Be Obstructed.—No keeper of any ferry or toll bridge, or other person, shall, upon any pretense whatsoever, stop up or obstruct any fording or crossing place on any river or creek within this State, with a view to compel any person or persons to cross over any ferry or toll bridge, under the penalty of two dollars and fifty cents, to be recovered before the nearest Magistrate, or in default of the payment thereof, to be imprisoned not more than ten days nor less than one day for every person or persons so prevented from passing over such fording or crossing place.

Crim. Code, '12, § 620; Crim. Code, '02, § 445; G. S. 1138; R. S. 356; 1791, IX, 336.

(575) § 8. Penalty for Injuring Mile Post.—Any person or persons who shall cut down, burn or deface any mile post or stone, erected by the County Commissioners or County Supervisor of any county, he, she, or they, upon conviction thereof, shall forfeit and pay the sum of ten dol-

lars, to be recovered by indictment or information before any Court of competent jurisdiction.

Crim. Code, '12, § 621; Crim. Code, '02, § 446; G. S. 1065; R. S. 357; 1871, XIV, 666.

(576) § 9. Wilfully Demolishing or Altering Guide Posts.—If any person shall wilfully demolish, throw down, alter, or deface any guide board, every person so offending shall, upon conviction thereof before any Magistrate of the proper county, be fined in a sum not exceeding ten dollars and the cost of suit, or be sentenced to labor on the public works of the county for a term of not more than thirty days, and the money, when collected, shall be by the Magistrate collecting the same paid over to the County Treasurer.

Crim. Code, '12, § 622; Crim. Code, '02, § 447; 1896, XXII, 233.

(577) § 10. Penalty for Neglect of Posting and Numbering Roads.—The County Board of Commissioners of any county neglecting to cause the public highways in their county to be posted and numbered, and to have pointers erected at each fork of said highways declaring the direction of such highways, shall be liable to pay the sum of ten dollars for each and every said neglect, to be recovered by indictment in the Court of General Sessions of the county wherein the same occurs, to be collected and paid to the Treasurer of such county for the use of such county: *Provided,* That no County Commissioner shall be liable to said penalty who shall put said pointer at such times as he shall have his division of roads worked.

Crim. Code, '12, § 623; Crim. Code, '02, § 448; G. S. 1066; R. S. 358; 1871, XIV, 666.

(578) § 11. Penalty for Driving Fast, Etc., Over Bridges.—No person shall drive, lead, or, having charge thereof, shall permit any carriage, animal or other thing to travel over or on any bridge more than ten feet long, now constructed, or hereafter to be constructed by the authority of the Legislature, in a gait faster than a walk, nor shall any person having charge of any carriage, animal or thing cause or permit it to stop on any such bridge, and every person so offending against this provision shall, on conviction thereof before any Magistrate of the county, pay a fine not exceeding ten dollars nor less than five dollars.

Crim. Code, '12, § 600; Crim. Code, '02, § 438; G. S. 1112; R. S. 350; 1827, VI, 314.

Applies to bridges built under the general law. Culbertson *v.* Abbeville County, 70 S. C. 457, 50 S. E. 33.

(579) § 12. All Traveling to Be on the Right of the Center.—Every person, carriage, animal, or other thing, traveling, or passing on or over, any turnpike road, public highway, causeway or bridge, now constructed, or hereafter to be constructed, laid out or opened according to law, shall keep entirely on the right of the center of the said road, public highway, causeway, or bridge, so as not to obstruct the passage of any other person, carriage, animal, or thing, on the other side of the center thereof. And every person who shall drive, lead, or, having charge thereof, shall permit any carriage, animal or other thing to travel on such road, public highway, causeway or bridge contrary to this provision, shall, on conviction thereof before any Court of competent jurisdiction, pay a fine not exceeding ten dollars nor less than two dollars, or in default of the payment thereof, be

imprisoned not more than ten days nor less than one day, and be further liable for all damages occasioned thereby.

Crim. Code, '12, § 617; Crim. Code, '02, § 442; G. S. 1130; R. S. 353; 1899, XXIII, 101.

(580) § 13. Careless Riding and Driving on Public Roads.—It shall be unlawful for any person to ride or drive any horse or mule or bicycle, automobile and locomobile, upon any street or alley in any city or town or any public highway of this State, in a wilfully careless or reckless manner. Any person convicted of violation of this Section shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days.

Crim. Code, '12, § 612; Crim. Code, '02, § 439; 1901, XXIII, 747.

(581) § 14. Running of Motor Vehicle Regulated.—No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper at the time and place, having regard to the traffic and use of the highway, and its condition, or so as to endanger the life, limb or property of any person, or in any event at a greater rate than twenty-five miles an hour, subject, however, to the other provisions in Sections (582) to (586), inclusive.

Crim. Code, '12, § 601; 1905, XXIV, 965; 1918, XXX, 716.

(582) § 15. Duty of Person Operating Motor Vehicle.—Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control, and operate it at the rate of speed no greater than six miles an hour, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

Crim. Code, '12, § 602; 1905. XXIV, 965.

Chero-Cola Bottling Co. *v.* S. C. L. P. & R. Co. 104 S. C. 214, 88 S. E. 534. Does not apply to railroad crossings. Dobbins *v.* S. A. L. Ry. Co. 108 S. C. 254, 93 S. E. 932.

(583) § 16. Duty of Person Operating Motor Vehicle on Approaching a Horse.—Upon approaching a person walking in the roadway of a public highway or a horse or other draft animals, being ridden or driven thereon, a person operating a motor vehicle shall give warning of its approach by signaling with a horn, bell or otherwise not calculated to frighten such animals, and use every reasonable precaution to insure the safety of such person or animals, and, in the case of horses or other draft animals, to prevent frightening the same, and at once reduce the speed at which such vehicle is being operated and hold same under control, and if such horses or other draft animals appear frightened, to reduce the speed to not more than one-half the speed permitted by Section (582), and bring same to stop if apparently necessary for the safety of such person or animal, having due regard to safety of passengers in such motor vehicle.

Crim. Code, '12, § 603; 1905, XXIV, 965.

(584) § 17. Rules for Passing Motor Vehicle.—Whenever a person operating a motor vehicle shall meet on public highways any other person riding or driving a horse or horses or other draft animals, or any other

vehicle, the person operating such motor vehicle shall reasonably turn the same to the right of the center of such highway, so as to pass without interference. Any person operating a motor vehicle shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider, driver of such horse, draft animal, or other vehicle, shall, as soon as practicable, turn to the right, so as to allow free passage on the left. Any person operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right, and pass to the left of such intersection when turning to the left.

Crim. Code, '12, § 605; 1905, XXIV, 965.

(585) § 18. Each Motor Vehicle to Have Brakes and Signals.—Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes and also with a suitable bell, horn, or other signal, and be so constructed so as to exhibit during the period necessary from or after sunset until not necessary before sunrise, a white light visible within a reasonable distance in the direction toward which the vehicle is proceeding, and a red light in reverse direction: *Provided,* That in case of heavy fog, if necessary, such light shall be displayed in the daytime before sunset and after sunrise: *Provided,* That all such lights shall not be focused to give light beyond one hundred fifty (150) feet in front, and shall have attached to each dimmers, which must be used when approaching another vehicle, and no spotlight shall be flashed on any car while said car is in motion.''

Crim. Code, '12, § 606; 1905, XXIV, 965; 1919, XXXI, 242.

(586) § 19. Violation of Sections (581) to (585) a Misdemeanor.—Whoever shall violate the provisions of Sections (581), (582), (583), (584) and (585) shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than ten dollars nor more than one hundred dollars, or imprisonment for not more than thirty days.

Crim. Code, '12, § 610; 1905, XXIV, 965.

(587) § 20. Operator of Motor Vehicle to Stop for Horses to Pass.—A person operating a motor vehicle shall, at request or upon signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop, if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in opposite direction, remain stationary so long as may be reasonable to allow such horses or animals to pass. And if traveling in the same direction, the person or persons operating the motor vehicle shall not pass any person or persons in charge of an animal or animals, if requested by such person or persons in charge of such animal or animals not to do so, until such person or persons have gotten to a place where they could drive such animal or animals out of the road, or when passage could be safely effected, or when such person or persons without just cause and excuse intentionally obstruct the passage of any motor vehicle: *Provided,* That in case such horse or animal appear badly frightened, or he is requested to do so, the person operating such vehicle shall cause the motor

of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals.

Crim. Code, '12, § 604, 1905, XXIV, 965; 1906, XXV, 79.

Gue *v.* Wilson, 87 S. C. 144, 69 S. E. 99.

(588) § 21. Penalty as to Persons Operating Motor Vehicle.—Any person, or persons, violating any of the provisions of Section (587) shall, for each offense, be deemed guilty of misdemeanor, and, upon conviction thereof by any Court of competent jurisdiction, be liable to a fine of not less than twenty dollars nor more than one hundred dollars, or imprisonment at hard labor for a term not exceeding thirty days.

Crim. Code, '12, § 609; 1906, XXV, 79.

(589) § 22. Driving of Motor Vehicles by Persons Under Influence of Intoxicants or Narcotics Unlawful.—It shall be unlawful for any person or persons, while under the influence of intoxicating liquors or narcotics, to drive or operate upon the public highways of this State any automobile, motorcycle or other motor vehicle. Any person or persons violating the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction thereof, by a Court of competent jurisdiction, shall be fined in a sum not less than twenty nor more than one hundred dollars, or imprisoned for a period of not less than twenty nor more than thirty days in the county jail or upon the county chaingang of the county in which the violation occurred.

1917, XXX, 52.

(590) § 23. Unlawful to Allow Minor Under Twelve Years of Age to Operate Motor Vehicle on Highways.—1. It shall be unlawful for the owner of any automobile or other motor vehicle to allow any minor under the age of twelve years to drive or operate such automobile or other motor vehicle upon the public highways of the State.

2. Unlawful for Minor Under Twelve Years of Age to Operate Motor Vehicle on Highway.—It shall be unlawful for any minor under the age of twelve years to drive or operate any automobile or other motor vehicle upon the public highways of the State, whether or not the same be with the consent of their parents or guardians.

3. Penalty on Car Owner Allowing Violation.—Any person or persons allowing or consenting to a minor under twelve years driving or operating his or their car against the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not exceeding one hundred ($100) dollars, or be imprisoned upon the county chaingang for a period of not exceeding thirty days.

4. Penalty on Minor for Violation.—Any minor under the age of twelve years who violates the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to the same penalty as is above provided.

1920, XXXI, 895.

(591) § 24. Driver of Motor Vehicle Striking Any Person or Vehicle to Stop and Render Assistance.—Every person driving a motor vehicle which strikes or hits any person or another vehicle shall stop such motor

vehicle at once and render such assistance as he or she can, and shall, upon request, give his or her name and postoffice address and the license of his motor vehicle. Any person violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than five hundred dollars or imprisoned not more than one year or both.

1920, XXXI, 752.

(592) § 25. Gates on Public Road Nuisance—Requisite Width—Condition—Hitching Post—Punishment.—It shall be lawful for any citizen of this State over whose land any road may pass, other than a public highway, to erect gates thereon, and the person owning or erecting such gates shall be liable to be indicted for a nuisance if they fail to keep them as herein provided; that is to say, the owner or keeper of any gate which obstructs a highway, either public or private, shall have such gate constructed so as to afford a roadway between the posts of at least nine feet, and shall keep the said gate in such repair and condition as to be easily opened and shut, and that the latch or fastening will adjust itself on being closed; and, further, that the said keeper shall erect or cause to be erected, a convenient distance from such gate, a suitable hitching post for the convenience of those traveling in vehicles. That the owner or keeper of such gate, who shall fail to comply with the requirements of this Section, shall upon conviction, for each offense, pay a fine of not less than twenty-five dollars, or be imprisoned in the county jail for a term not exceeding thirty days.

Crim. Code, '12, § 624; Crim. Code, '02, § 449; G. S. 1067; R. S. 359; 1885, XIX, 59.

A neighborhood road or private path is within the provisions of this Section. State *v.* Jeffcoat, 11 Rich. 529.

(593) § 26. Penalty for Interfering With Gates.—In case any person or persons shall interfere with, injure, destroy or wilfully leave open any such gates, such person or persons shall be liable to indictment as for a misdemeanor.

Crim. Code, '12, § 625; Crim. Code, '02, § 450; G. S. 1068; R. S. 360; 1855, XII, 408.

(594) § 27. Erection of Gates on Highways.—County Boards of Commissioners of the several counties in this State are hereby authorized, on application to them for the purpose, to allow the erection of gates upon the highways of the State, wherever in their judgment the same may be expedient and not detrimental to the public interest, subjecting the person or persons owning or erecting such gates, nevertheless, to the pain and penalties prescribed in Section (592).

Crim. Code, '12, § 626; Crim. Code, '02, § 451; G. S. 1072; R. S. 361; 1878, XVI, 361; 1893, XXI, 481.

(595) § 28. Regulation Respecting Gates.—If any person shall wilfully cut or destroy any gate which may be put up by the authority of the Commissioners in pursuance of the last preceding Section whilst the same is kept in good order, such person shall pay a penalty of twenty dollars, to be recovered by an action at the suit of the county before a Mag-

istrate. And if any person shall wilfully leave open any gate as aforesaid, such person shall be liable to pay a like penalty, to be recovered as aforesaid.

Crim. Code, '12, § 627; Crim. Code, '02, § 452; G. S. 1073; 1821, IX, 509.

(596) § 29. Penalty for Damaging Roads.—If any person shall wilfully destroy, injure, or in any manner hurt, damage, impair or obstruct any of the public highways, or any part thereof, or any bridge, culvert, drain, ditch, causeway, embankment, wall, tollgate, tollhouse, or other erection belonging thereto, or any part thereof, the person so offending shall, upon conviction thereof, be imprisoned not more than six months, or pay a fine not exceeding five hundred dollars, or both, at the discretion of the Court, and shall be further liable to pay all the expenses of repairing the same.

Crim. Code, '12, § 628; Crim. Code, '02, § 453; G. S. 1074; R. S. 362; 1788, IX, 311; 1824, IX, 545; 1885, XIX, 307.

See § 601 and note, as to temporary obstruction. This Section may refer to permanent obstruction.

Whether logs are placed in a highway to protect the land of defendant or to obstruct the highway is for the jury, and if so placed as to obstruct the road by design, defendant is guilty. State *v.* Havird, 88 S. C. 227.

(597) § 30. Injury to Bridges, Etc.—Whoever shall wantonly or wilfully injure or destroy any bridge or bridges built by authority of the Commissioners of any two counties over any river or creek lying between such counties, on indictment and conviction of the same at the Court of General Sessions in the county where the offense was committed, shall be subject to such fine and imprisonment as the said Court shall direct: *Provided,* That nothing herein contained shall extend, or be construed to extend, to any of the toll bridges already established by law or that may be hereafter established. Any person or persons who shall wilfully or maliciously injure or destroy, by floating rafts or in any manner, any bridge on any public roads in this State, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than fifty nor more than five hundred dollars, or be imprisoned not less than thirty nor more than ninety days, in the discretion of the Court: *Provided,* That nothing herein contained shall affect the right of action for damages in a civil suit against the person or persons so injuring or destroying any such bridge.

Crim. Code, '12, § 629; Crim. Code, '02, § 454; G. S. 2509, 2510, 2511; R. S. 363; 1825, IX, 570; 1881, XVII, 570.

(598) § 31. Obstructing Ditches and Drains.—Whoever shall obstruct or cause to be obstructed, any ditch or drain on the side of any road which has been, or may hereafter be, constructed under the authority and at the expense of the State, or any ditch or drain made as aforesaid, to drain water from any part of the said roads, or any of them, by throwing into the said ditches or drains any earth, logs, trees, brushes or other things whatsoever, and shall not immediately remove the same, when required, shall be deemed guilty of a nuisance, and, on conviction thereof, shall be fined in a sum not exceeding ten dollars nor less than two dollars, and shall be further liable for the expense of removing the same.

Crim. Code, '12, § 630; Crim. Code, '02, § 454; 1826, IX, 570.

(599) § 32. **Cutting Down Shade Trees on Public Roads.**—Whoever shall wilfully or wantonly cut down or kill any tree growing within ten feet of any road which shall be laid out, altered or mended by authority of the County Board of Commissioners or the County Supervisor of any county, and which shall, by direction of the Highway Surveyor in charge of such road, have been left standing as convenient for shade to the said road, for each tree so cut down or killed, shall be fined twenty-five dollars by any Court of competent jurisdiction.

Crim. Code, '12, § 633; Crim. Code, '02, § 457; G. S. 2512; R. S. 364; 1788, IX, 312.

(600) § 33. **Unlawful to Cut Certain Trees Along Highways in Beaufort County.**—Whoever shall cut down, mutilate or kill any growing tree, growing within ten feet of any public road or highway which shall be laid out, altered or mended by authority of the County Board of Commissioners, or the County Supervisor, of Beaufort County, without the consent in writing of the County Supervisor, upon conviction thereof, shall pay a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned for not longer than thirty days: *Provided,* That the County Supervisor shall not give such consent in writing without a majority vote of the County Commissioners.

Crim. Code, '12, § 634; 1910, XXVI, 701.

(601) § 34. **Penalty for Obstructing Roads.**—If any person shall cause any obstruction to be placed in any part of the said highways or on any bridge or causeway thereof, so as to obstruct or render dangerous or difficult the passage of carriages, or other traveling thereon, and shall not immediately remove the same when required, he shall be deemed guilty of a nuisance, and, on conviction thereof before a Magistrate, shall be fined in a sum not exceeding ten dollars nor less than two dollars, and shall be further liable for the expense of removing the said nuisance.

Crim. Code, '12, § 635; Crim. Code, '02, § 458; G. S. 1075; R. S. 365; 1824, IX, 545.

This Section applies to temporary, not permanent, obstructions, and the Circuit Court has concurrent jurisdiction, under the Constitution of 1895, Article V, Sec. 18, to try cases arising under it. State *v.* Wolfe, 61 S. C. 25, 39 S. E. 179.

The mere obstructing of a highway is in itself a public nuisance. State *v.* Harden, 11 S. C. 366.

What are public roads? Kirby *v.* Southern Railway, 63 S. C. 494, 41 S. E. 765.

As to what roads the Section applies. State *v.* Gregg, 2 Hill 387; State *v.* Mobley, 1 McM. 47; State *v.* Caldwell, 2 Speer 163; State *v.* Randall, 1 Strob. 110; State *v.* Thompson, 2 Strob. 16; State *v.* Sartor, 2 Strob. 64; State *v.* Huffman, 2 Rich. 619; State *v.* Lythgoe, 6 Rich. 112; State *v.* Pettis, 7 Rich. 392; State *v.* Duncan, 1 McC. 404.

It does not apply to neighborhood roads. State *v.* Harden, 11 S. C. 360; State *v.* Mellette, 106 S. C. 224, 91 S. E. 4.

INDICTMENT—

Is the proper remedy for obstructing highways. Commissioners *v.* Taylor, 2 Bay 282.

It applies to neighborhood roads, which the public have acquired the right to use by prescription. State *v.* Tyler, 54 S. C. 294, 32 S. E. 422; State *v.* Floyd, 39 S. C. 23, 17 S. E. 505; State *v.* Sartor, 2 Strob. 60; State *v.* Toale, 74 S. C. 425, 54 S. E. 608; State *v.* Knotts, 70 S. C. 400, 50 S. E. 9; Earle *v.* Poat, 63 S. C. 439, 41 S. E. 525; State *v.* Washington, 80 S. C. 376, 61 S. E. 996.

Adverse use to establish prescriptive right. State *v.* Rodman, 86 S. C. 154, 68 S. E. 343.

The actual opening of road by County Commissioners may be shown by any witness who knows the fact. State *v.* Kendall, 54 S. C. 192, 32 S. E. 300.

The proceedings of the Commissioners in opening the road may be collaterally attacked for jurisdictional defects, but not for mere irregularities. State *v.* Kendall, 54 S. C. 192, 32 S. E. 300.

Testimony to plat showing survey of road. State *v.* Crocker, 49 S. C. 243, 27 S. E. 49.

(602) § 35. **Unlawful to Plough or Interfere With Roads in Charleston, Lancaster and Beaufort Counties.**—It shall be unlawful for any person or persons to place any dirt, trash, stone, glass, brick, brush, mud, or other matter or substance in any of the public roads of Charleston, Lancaster, and Beaufort Counties, or to interfere in any manner with any

of the ditches or drains of said roads, or to plow in or into said roads, ditches or drains. Any person violating any of the provisions of this Section, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment at hard labor for not more than thirty days.

Crim. Code, '12, § 636; 1910, XXVI, 785; 1909, XXV, 145.

(603) § 36. Highways to Be Drained in Newberry County—Misdemeanor to Obstruct.—It shall be the duty of the Supervisor and County Commissioners in Newberry County, or any person having charge of road improvement in said county, to give each highway a proper and sufficient drainage, and any person who shall obstruct any ditch or culvert in Newberry County, and thereby prevent the proper drainage of any highway, by plowing into the same, or by any manner of obstruction, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five dollars nor more than twenty dollars for each offense, or imprisoned for not less than ten days nor more than twenty days; and it is hereby made the special duty of the Supervisor to strictly enforce this Section.

Crim. Code, '12, § 637; 1909, XXVI, 133.

(604) § 37. Penalty for Improper Use of Tools.—Any person using the ploughs, scrapers, or other tools furnished for use on the bridges or highways by the County Board of Commissioners, for other purposes than the purpose for which the same were furnished, shall be fined not more than fifty dollars nor less than five dollars, or imprisonment not less than ten nor more than thirty days.

Crim. Code, '12, § 643; 1902, XXIII, 1006.

(605) § 38. Refusal to Perform Road Duty in Certain Towns and Cities.—Any person liable to perform road duty on the streets or public ways of any town or city of over one thousand inhabitants, failing or refusing to perform such work, or to compound as provided by the ordinance of said town or city, upon conviction thereof before the Mayor or Acting Mayor, Intendant or Acting Intendant (who may bring such persons before him by warrant), shall be fined not exceeding ten dollars, or be imprisoned in the City, Town or County jail for a period not exceeding thirty days.

Crim. Code, '12, § 649; 1908, XXV, 1023.

(606) § 39. Misdemeanor for Road Engineer to Receive Work Not in Accordance With Contract.—Should the Road Engineer or the Supervisor of Williamsburg and York Counties receive any bridge or section of road let out by contract, unless the same shall have been completed according to the plans and specifications thereof, in every particular and detail, he shall be subject to indictment for a misdemeanor, and, upon conviction, shall be punished in the discretion of the Court.

Crim. Code, '12, § 656; 1908, XXV, 1098, 1175.

(607) § 40. No Ditches to Be Cut Across Any Highway in Clarendon County.—It shall be unlawful for any person or persons to cut any ditches

across any of the public highways of Clarendon County without first having obtained a written permit from the County Board of Commissioners, who shall require the person or persons applying for such permit to put in the ditch or ditches they may cut across the public highways terra cotta piping sufficiently large to provide ample water passage. Any person or persons violating this Section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding twenty-five dollars, or imprisonment not exceeding thirty days upon the public works of said county.

Crim. Code, '12, § 658; 1907, XXV, 657.

(608) § 41. Obstruction of Highways Prohibited—Misdemeanor—Penalty.—It shall be unlawful for any person or persons to place any dirt, trash, stone, glass, brick, brush, mud or other matter or substance in any of the public roads of this State calculated to injure such roads or to interfere in any manner with any of the ditches or drains of said roads, or to plough in or into said roads, ditches or drains: *Provided,* This Section shall not apply to persons engaged in working said roads or highways under authority of law. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment at hard labor for not more than thirty days.

2. Enforcement—Proviso.—It shall be the especial duty of all County Boards of Commissioners, Township Commissioners or other officers charged with similar duties to see to the enforcement of the provisions of this Section: *Provided,* That the provisions of this Section shall not apply to Greenwood, Saluda, Spartanburg, Laurens, Berkeley, Pickens, Greenville, Kershaw, Chesterfield, Bamberg and Cherokee Counties.

3. Cumulative.—This Section shall not be deemed or construed to repeal any statutes of this State relating to the obstruction of public highways nor any remedy provided therefor.

1915, XXIX, 217.

(609) § 42. Owners of Lands in Lancaster County to Remove Trees Near Roads.—Every owner of land within one hundred feet of any public road in Lancaster County, and paralleling the same, be, and he is hereby required to remove any and all trees therefrom, except fruit trees, within six months after notice in writing by the County Commissioners of said county.

Any refusal to comply with the provisions of this Section shall subject the offender to a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

1920, XXXI, 724.

(610) § 43. Drainage of Lands Into Roads, Prohibited in Pickens County.—It shall be unlawful in Pickens county for any owner of lands along any public road or highway in said county to make or erect any

terrace, ditch or sluice upon such lands in such manner as to drain the water therefrom upon and into such road or highway. Any such person convicted of the violation of the provisions of this Section shall suffer imprisonment for not more than thirty days, or pay a fine of not more than one hundred dollars.

1919, XXXI, 61.

(611) § 44. Negligent or Wilful Placing in Highways of Substances Injurious to Automobile Tires Unlawful—Penalty.—Whosoever shall carelessly, negligently or wilfully place or cause to be placed upon any public highway any glass, nails, tacks or other metal substance calculated to puncture or otherwise injure automobile tires passing over the same, shall be guilty of a misdemeanor, and, upon conviction, subject to a fine of not more than one hundred dollars, or imprisonment for not more than thirty days.

1918, XXX, 765.

(612) § 45. Placing Glass, Nails, Etc., on Highways Prohibited—Penalty—Disposition of Fines.—It shall be a misdemeanor for any person to place, throw or leave any broken glass, glass bottles, scrap iron, tin cans or pointed nails within any highway in the State of South Carolina, and any person violating the terms of this Section shall be fined not less than ten dollars nor more than fifty dollars, or be imprisoned not less than ten days nor more than thirty days. Said fines to go to the public school funds of the county in which the offense was committed.

1920, XXXI, 748.

(613) § 46. Hauling Timber, Etc., in Clarendon and Aiken Counties Regulated—Penalty.—It shall be unlawful for any person, firm or corporation, or their or its agents, employees or servants to haul, convey or transport any logs, timber or lumber on or over any of the public roads or highways of Clarendon and Aiken counties with any vehicle having less than four (4) wheels, or to haul, convey or transport any logs, timber or lumber on or over any of the public roads or highways of said county in any manner whereby any part of the load comes in contact with the surface of the road or highway: *Provided,* That the County Board of Commissioners, in their discretion, may permit for a definite period of time, the transportation of logs, timber or lumber otherwise than herein provided; the parties so transporting such logs, timber or lumber being required to file a good and sufficient bond in an amount sufficient to cover the maximum possible damage to the roads, bridges and highways over which such transportation is allowed or permitted and conditioned to restore the said roads, bridges and highways to their original condition. Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punishable by a fine of not less than five ($5.00) dollars nor more than one hundred ($100.00) dollars, or by imprisonment for not more than thirty (30) days.

1921, XXXII, 140.

(614) § 47. Hauling Timber, Etc., Over Highways of Dillon, Lee, Orangeburg and Barnwell Counties Regulated—Penalty for Violation.—It shall be unlawful for any person or persons, engaged in the sawmill, lumber, timber or logging business, to haul, convey or transport any logs, timber or lumber on or over any of the public roads or highways of Dillon and Lee and Orangeburg and Barnwell Counties, with any vehicle having less than four wheels, or to haul, convey or transport any logs, timber or lumber on or over any of the public roads or highways of said counties in any manner, except as hereinafter provided: *Provided,* That the County Board of Commissioners, in their discretion, may permit, for a definite period of time, the transportation of logs, timber or lumber otherwise than herein provided; the party so transporting such logs, timber or lumber shall be required to file a good and sufficient bond in an amount sufficient to cover the maximum possible damage to the roads, bridges and highways over which such transportation is allowed or permitted, and conditioned to restore the said roads, bridges and highways to their original condition. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than five dollars, nor more than one hundred dollars, or by imprisonment for not more than thirty days.

1916, XXIX, 1109; 1917, XXX, 333; 1918, XXX, 713.

(615) § 48. Hauling Timber, Etc., in Marion, Charleston, Horry, Jasper, Florence, and Georgetown Counties, Regulated—Penalty.—It shall be unlawful for any person or persons to haul, convey or transport any logs, timber or lumber on or over any of the public roads or highways of Marion County, Charleston County, Horry County, Jasper County, and Florence and Georgetown County, with any vehicle having less than four wheels, or to haul, convey or transport any logs, timber or lumber on or over any of the public roads or highways of said counties in any manner whereby any part of the load comes in contact with the surface of the road or highway: *Provided,* That the County Board of Comsioners, in their discretion, may permit for a definite period of time the transportation of logs, timber or lumber otherwise than herein provided; the party so transporting such logs, timber or lumber be required to file a good and sufficient bond in an amount sufficient to cover the maximum possible damage to the roads, bridges and highways over which such transportation is allowed or permitted, and conditioned to restore the said roads, bridges and highways to their original condition. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment for not more than thirty days.

1913, XXVIII, 185; 1917, XXX, 612; 1918, XXX, 735; 1919, XXXI, 214.

(616) § 49. Unlawful to Use Certain Timber Carts in Beaufort County.—It shall be unlawful for any person, firm or corporation to operate or use, or cause to be operated or used, or assist in operating or using, any timber cart or vehicle upon the highways or public roads of Beaufort County if, in the opinion of the County Board of Commissioners, said tim-

ber carts or vehicles are detrimental to said highways and public roads, unless such person, firm or corporation shall have first paid into the treasury of Beaufort County a sum not in excess of fifteen dollars, to be determined by said Board, for each timber cart or vehicle so used or operated, to pay for the damage done highways and public roads by reason of their use or operation, which said sums shall be expended in repairing and keeping in condition said highways and public roads: *Provided,* That a reasonable notice shall first be given the persons, firms or corporations, as aforesaid, of the action of the said Board; and any person, firm or corporation, convicted of violating the provisions of this Section, shall be fined not more than one hundred dollars, or be imprisoned more than thirty days.

Crim. Code, '12, § 613; 1910, XXVI, 726.

(617) § 50. License for Timber Carts and Vehicles in Berkeley County —Penalty.—An annual license tax of ten ($10.00)) dollars is hereby imposed on all timber carts in use upon the public highways of Berkeley County habitually hauling timber and lumber for profit: *Provided,* That no license tax be imposed on any timber cart or log wagon when being used by individuals in moving timber upon their own lands for the improvement of same, or removing timber from fields. It shall be unlawful for any person, firm or corporation to habitually haul timber or lumber within the County of Berkeley by any vehicle of any description which shall be pulled by two (2) or more mules, horses or oxen engaged in such business for profit, without first having obtained a license therefor from the Clerk of Court of the said county, which license shall be the sum of twenty-five ($25.00) dollars per annum for each wagon or other vehicle as above described and so used in Berkeley County. Any violation of this Section shall be punishable by a fine of not exceeding one hundred dollars or imprisonment not exceeding thirty days.

1917, XXX, 381.

(618) § 51. Operation of Timber Carts in Bamberg County Regulated —License—Penalty.—1. It shall be unlawful for any person to operate, or cause to be operated, upon the public highways of Bamberg County any vehicles commonly known as "timber carts" and used for the purposes of transporting logs and timber, except upon the conditions hereinafter prescribed.

2. Before operating, or causing to be operated, upon the public highways of Bamberg County any such timber cart, which has four wheels or more, the owner thereof shall make application to the County Board of Commissioners for said county for a license to operate such vehicle and, upon the payment of the sum of fifteen ($15.00) dollars for each vehicle to be licensed, the said Board shall issue to such applicant a certificate of registration and license authorizing the operation of such timber cart upon the highways of Bamberg County for the period of one year from date of issue; and each vehicle so licensed shall be assigned a distinctive number under which it shall be operated, and at all times such numbers shall be in evidence on such timber cart and plainly written on a plate to be prescribed by said Board.

3. Said County Board may, in its discretion, issue a permit to any person, authorizing the operation of any such vehicle or timber cart, which has less than four wheels, upon such highways as may be designated and for such period as the Board may name: *Provided,* That such person shall first enter into a good and sufficient bond to the County of Bamberg, in such sum as the Board shall require, conditioned to keep in good repair all such highways as are designated in such permit and restore the same to their original condition at the expiration of said period, said bond to be approved by said Board and filed with the Clerk of Court of said County of Bamberg.

4. Any person who shall operate, or cause to be operated, upon the public highways of Bamberg County any such vehicle prohibited under the provisions of this Section, without first procuring the license or permit in the manner herein prescribed, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding fifty ($50.00) dollars or sentenced to serve a term of labor on the public works of Bamberg County for a period not exceeding thirty days: *Provided,* That the provisions of this Section shall not be construed to prohibit any person from operating any form of vehicle upon private roads, or from crossing any public highway.

5. All funds coming into the hands of said County Board under the provisions of this Section and all fines collected by reason of violations hereof shall be paid to the Treasurer of Bamberg County and by him credited to the general road fund of said county.

6. Said County Board shall prescribe and adopt such forms as will meet the requirements of this Section the issuance of said licenses and permits; and said Board shall also prescribe such books as may be necessary in which shall be kept a complete record of all licenses so issued, and the same shall be subject to public inspection at all times.

1917, XXX, 251.

(619) § 52. Penalty for Violation of Laws Regulating the Use of Trucks Upon the Highways of York County.—Any violation of the provisions of Sections (3046), (3047), Civil Code, shall subject the offender, upon conviction, to a penalty of not less than fifty nor more than one hundred dollars, or imprisonment of not more than thirty days.

1921, XXXII, 139.

(620) § 53. Penalty for Neglect to Work Roads—Lexington County.—If the Commissioners of any county neglect to have repaired any of the highways, and bridges which by law are required to be kept in repair, they shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum of not less than one hundred or more than five hundred dollars, in the discretion of the Court. If any overseer appointed by the Supervisor or Board of County Commissioners of Lexington County shall fail, refuse or neglect to perform the duties required by the Supervisor or Board of County Commissioners, or should fail, refuse or neglect to perform any duty required or imposed by law, he shall be deemed guilty

of a misdemeanor, and, upon conviction, shall be fined not more than one hundred dollars, or imprisoned for not more than thirty days.

Crim. Code, '12, § 598; Crim. Code, '02, § 436; G. S. 1088; R. S. 348; 1874, XV, 784; 1910, XXVI, 722.

(621) § 54. Obstruction of Roads—Penalty.—If any person or persons, corporations, or any conductor of any train of railroad cars, or any other agent or servant of any railroad company, shall obstruct unnecessarily any public road or highway by permitting any railroad car or cars or locomotive to be or remain upon or across any street, public road or highway for a longer period than five minutes, after notice to remove said cars has been given to conductor, engineer, agent or other such person in charge of said train, or shall permit any timber, wood, or other obstruction to remain upon or across any such street, road or highway to the hindrance or inconvenience of travelers, or any person or persons passing along or upon such street, road or highway, every person or corporation so offending shall forfeit and pay for every such offense any sum not exceeding twenty nor less than five dollars, and shall be liable for all damages arising to any highway, to be recovered by an action at the suit of the County or Township Board of Commissioners in which such offense shall have been committed, or any person suing for the same, before any Magistrate within the county where such offense shall have been committed, or by indictment in the Court of General Sessions or suit in the Court of Common Pleas; and all fines so accruing under the provisions of this Section, when collected, shall be paid over by the Magistrate to the County Treasurer for the district in which such offense was committed; and every twenty-four hours such corporation, person or persons, as aforesaid, after being notified, shall suffer such obstructions, to the hindrance or inconvenience of travelers or any person going along or upon such road or highway, shall be deemed an additional offense against the provisions of this Section.

Crim. Code, '12, § 648; 1902, XXIII, 1007.

(622) § 55. Neglect of Duty by Road Officers in Newberry County—Prosecution of Overseers.—In the County of Newberry any overseer who shall fail or neglect to summon the hands liable to road duty and require them to labor upon the highways as aforesaid, when ordered and directed to so do by the County Board of Commissioners, shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine of twenty-five dollars, or be imprisoned on the county chaingang for a period of twenty days. It shall be the duty of the said County Board of Commissioners to prosecute each of the said overseers failing and neglecting to carry out the order and direction of the said Board as aforesaid. In the event of the failure of the said County Board of Commissioners to so prosecute each of the overseers failing and neglecting to carry out the order of the said Board within thirty days after being informed of the failure and neglect of such overseer, each of the said Board so failing and neglecting to so prosecute such delinquent overseer within the time aforesaid shall be guilty of a misdemeanor, and, upon conviction thereof, subject to pay a fine of fifty dollars, or be imprisoned on the county chaingang for a period of twenty days.

Crim. Code, '12, § 654; Crim. Code, '02, § 469; 1901, XXIII, 643; 1902, XXIII, 1018.

(623) § 56. Neglect of Duty a Misdemeanor in Newberry County.—It shall be the duty of the Supervisor and the County Commissioners of Newberry County to enforce the provisions of all sections of the Civil Code which are of force in Newberry County for the improvement of roads, bridges and ferries, and for any neglect or refusal, they shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than five dollars nor more than twenty dollars for each neglect or refusal to perform such duty.

Crim. Code, '12, § 655; 1909, XXV, 134.

(624) § 57. Protection for Bridges in Newberry County—Punishment for Violation.—All persons driving, transporting or conveying any traction or other engine weighing over fifteen thousand pounds upon or across any bridge in Newberry County shall lay upon such bridge suitable skids or other appliances for protecting the same from injury by the passage of such engine upon or across such bridge. Any violation of this provision shall be punished by a fine of not exceeding one hundred ($100.00) dollars or imprisonment for not exceeding thirty (30) days.

1914, XXVIII, 852; 1915, XXIX, 396.

(625) § 58. Obstructing Drains Made by Road Overseer, Etc.—The drains and ditches made by the road overseer, under the provisions of Section (2907) of the Civil Code, shall be kept open by such overseer and shall not be obstructed by the owner or occupant of such lands, or any other person or persons having the same in charge, under the penalty of forfeiting a sum not exceeding ten dollars, or imprisonment for not more than thirty days for each and every offense. Any person interfering with any road overseer or his assistants, in the performance of their duty, shall be guilty of a misdemeanor, and punished, on conviction, by fine of five dollars, or imprisonment for ten days for each offense.

Crim. Code, '12, § 645; Crim. Code, '02, § 462; 1900; XXIII, 289.

(626) § 59. Refusal to Work Roads Under Contractor.—Any person assigned to work under a contractor as provided in Section (2931) of the Civil Code, and refusing or failing to do so, shall be guilty of a misdemeanor and fined in a sum not less than five nor more than twenty dollars, or be imprisoned in the county jail for a period of not less than ten nor more than thirty days, or sentenced for the same period on chaingang.

Crim. Code, '12, § 647; Crim. Code, '02, § 464; 1896, XXII, 237.

(627) § 60. Interference With Surveyor Laying Out Public Roads.—It shall be a misdemeanor to interfere with the surveyor employed by the County Board of Commissioners to assist them in laying out or changing the location of public roads, under Section (2907) of the Civil Code, or his assistants, or with the marks set up by him, or by his orders, punishable by a fine of not more than ten dollars, or imprisonment for not more than twenty days for each offense.

Crim. Code, '12, § 644; Crim. Code, '02, § 461; 1900, XXIII, 286.

(628) § 61. No Fire to Be Carried on a Bridge.—No person shall carry over, or otherwise have or place any fire on any wooden bridge, or bridge the superstructure whereof is of wood, now constructed, or hereafter to be constructed, by the authority of the Legislature; and every person so offending shall, on conviction before any Magistrate of the county, pay a fine not exceeding ten dollars nor less than two dollars, and shall be liable for all damages occasioned thereby.

Civ. '12, § 2149; Civ. '02, § 1419; G. S. 1112; R. S. 1229; 1827, VI, 314.

(629) § 62. Keepers of Ferries to Keep Banks in Order.—It shall be the duty of every person keeping a ferry to keep in good order the banks of the river or creek at such ferry. And in case of neglect, he shall be subject to a fine of three dollars for each and every day of such neglect; the same to be recovered before any Magistrate having competent jurisdiction.

Civ. '12, § 2164; Civ. '02, § 1434; G. S. 1121; R. S. 1239; 1809, IX, 443.

(630) § 63. Aprons to Be Attached to Ferry Flats.—Each and every ferry owner or keeper in this State shall provide and keep attached to each end of his ferry flat or flats a good and sufficient apron, or, not having such aprons, shall keep, at each and every landing place, a good and sufficient abutment or inclined plane for the same; and for default or neglect in so doing he shall be fined in a sum not exceeding ten dollars for every three days continuance of such default, to be recovered in any Court having competent jurisdiction of the same; one-half thereof to the use of the State, and the other half to the informer.

Civ. '12, § 2165; Civ. '02, § 1435; G. S. 1122; R. S. 1240; 1824, IX, 544.

(631) § 64. Operation of Motor Vehicle Without License Plate a Misdemeanor—Penalty.—It shall be unlawful, after the passage of this Section for any person or persons, without securing registration for license, as provided in Section (3058), Civil Code, to run, drive or operate any motor vehicle on or along or across any public road, street or highway in the State of South Carolina without having displayed at all times to public view in the rear of said vehicles, a license number shall be acquired from the Highway Department under the law providing for such license number. Any violation of the provisions of this Section shall be deemed a misdemeanor, and shall be punished by a fine of not less than ten ($10.00) dollars nor more than twenty-five ($25.00) dollars, or imprisonment for not more than fifteen (15) days for each offense.

1917, XXX, 320; 1920, XXXI, 1072.

(632) § 65. Penalty for Failure to Perform Road Duty—Neglect of Road Duty.—Every person liable to road duty, who shall have been duly warned before the day fixed in his notice for such working, stating the hour and place of working, shall be subject to the direction of the overseer in charge. Any person who shall fail to pay the commutation road tax provided by law, and being so warned by the road overseer to perform said duty, shall refuse or neglect, having had at least twelve hours' notice, to attend by himself or substitute to the acceptance of the overseer, or, having attended, shall refuse to obey the direction of the overseer, or shall

spend the time in idleness or any inattention to the duties assigned him, shall be guilty of a misdemeanor, and, on conviction thereof, shall (except as otherwise provided by law) be fined not more than ten dollars nor less than five dollars and costs, or be sentenced to county chaingang not more than thirty days nor less than five days.

Crim. Code, '12, § 639; 1902, XXIII, 1004.

(633) § 66. Penalty for Failure to Work Roads in Saluda County—No Substitute to Be Under Fifteen.—Any person duly warned to perform the labor required in Sections (1871) to (1872), Civil Code, who shall fail or neglect to perform the same, shall be deemed guilty of a misdemeanor, and, upon conviction, shall pay a fine not exceeding one hundred dollars, or be imprisoned on the county chaingang for not exceeding thirty days: *Provided*, That no substitute under fifteen years of age and fully able to perform the labor required shall be accepted.

1915, XXIX, 415; 1917, XXX, 303.

(634) § 67. Offenses in Regard to State Highways—Obstruction of Drainage—Placing Objects Injurious to Vehicles—Cutting Trenches, Etc., Without a Permit—Loads or Vehicles of Excessive Weight or Width—Tractors—Timber Carts.—It shall be unlawful for any person to wilfully obstruct ditches and drainage openings along said roads, to place obstructions upon said roads, or to throw or place on said roads any objects likely to cut or otherwise injure vehicles using same. It shall also be unlawful for any person, firm or corporation to cut trenches, lay pipes or tracks through, under, over or on said highways and bridges without first obtaining a permit from the State Highway Engineer; or to transport over such highways and bridges loads exceeding a specified tonnage or weight per square inch of bearing surface in excess of that prescribed in the regulations laid down by said Highway Commission; or to run or operate any farm tractor or traction engine with wheel lugs or cleats on said highway, without first removing said lugs or cleats, or providing fillers for same, so that no injury will be done to road surface, or to operate over said highways or bridges any motor vehicle, the maximum width of which, or of the load it carries, exceeds seven and one-half feet (7 1-2), or to operate motor vehicles with chains upon or around the wheels, contrary to such regulations for the use of chains which may be adopted and promulgated by the State Highway Commission. It shall also be unlawful to operate upon any of the public highways of this State any two-wheeled timber carts, with tongue or small wheel attached thereto, which comes in contact with the road, and it shall also be unlawful to operate any vehicle over said roads for the purpose of carrying timber or other loads, by which timber or any other character of load is allowed to strike or drag on the surface of the road: *Provided, further*, That this proviso shall not apply to four-wheeled lumber carts where the load is so suspended as not to come in contact with the road. Any violation of the provisions of this Section shall be deemed a misdemeanor and punished by the fine or imprisonment prescribed in Section (3283), Civil Code.

1920, XXXI, 1072.

CHAPTER XII.

Offenses by Railroad Companies, Their Agents and Employees, and Offenses Committed Against Rights of Railroad Companies.

(635) Section 1. Injury by Negligence or Carelessness—Penalty for.—When an engineman, fireman, or other agent or officer of a railroad corporation, is guilty of negligence or carelessness whereby an injury is done to any person or corporation, he shall be punished by imprisonment not exceeding twelve months, or by a fine not exceeding one thousand dollars.

Crim. Code, '12, § 660; Crim. Code, '02, § 472; G. S. 1526; R. S. 369; 1882, XVII, 834.

(636) § 2. Penalty for Gross Carelessness or Negligence.—Whoever, having management of, or control over, a railroad train while being used for the common carriage of persons, is guilty of gross carelessness or neglect in, or in relation to, the management or control thereof, shall forfeit a sum not exceeding five thousand dollars, or be imprisoned not more than three years.

Crim. Code, '12, § 661; Crim. Code, '02, § 473; G. S. 1527; R. S. 370; 1882, XVII, 835.

(637) § 3. Negligence by Employees.—Any engineer, conductor, or other agent or employee of any railroad company in this State, who shall wilfully neglect to observe, or shall wilfully violate, any rule or regulation of the company to which such engineer or conductor may belong, whereby any person or persons shall sustain, or be in danger of sustaining, any bodily injury, such engineer or conductor, or other agent or employee, shall be liable to be indicted for every such offense, and, upon conviction thereof, be fined two hundred dollars and imprisonment not exceeding one year, at the discretion of the Judge before whom such case may be tried: *Provided, however,* That nothing herein contained shall be so construed as to relieve such engineer or conductor from responsibility, in cases where the life of any person is destroyed under the law as it now exists.

Crim. Code, '12, § 662; Crim. Code, '02, § 474; R. S. 371.

(638) § 4. Certain Cars Not to Be Left Near Crossings—Penalty.—It shall be unlawful for any railroad section master or any person in charge of or connected with any hand car or lever car to remove same from any railroad track and continue same stationary within fifty yards of any public crossing other than at any regular railroad section house, except when necessary to avoid an approaching train, or when in charge of employees engaged in actual work upon such crossing, and then only for such a period as is necessary to avoid such train or to perform such work. Any person violating the provisions of this Section shall, upon conviction, be fined not exceeding fifty dollars, or be imprisoned not exceeding thirty days.

Crim. Code, '12, § 663; 1902, XXIII, 1055.

(639) § 5. All Steam Railroads to Equip Coaches with Cinder Deflectors.—All railroad companies operating passenger trains or coaches, by steam, within or through this State, are hereby required to put cinder deflectors that will, in the judgment of the Railroad Commission, effectually

keep cinders from engines entering the cars, upon all windows of passenger coaches, so as to protect passengers when windows are raised. Any railroad company refusing or neglecting to comply with this Section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than five hundred nor more than one thousand dollars for each coach not screened as required by this Section: *Provided,* It shall be the duty of the Railroad Commission to see that this Section is enforced. This Section shall not apply to railroads of only forty or less miles in length.

Crim. Code, '12, § 664; 1908, XXIV, 1052; 1909, XXVI, 119; 1910, XXVI, 119.

(640) § 6. Misdemeanor Wilfully to Open or Injure Baggage or Express Package—Penalty.—It shall be unlawful for any agent, servant, baggage master, or other person in the service or employment of any railroad, express company or steamboat lines, to carelessly or negligently or wilfully open, break into or injure any package, parcel or baggage while in the custody or under the control of any such common carrier. Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor, and punished by fine or imprisonment, or both, in the discretion of the Court.

Crim. Code, '12, § 665; 1909, XXVI, 162.

(641) § 7. Baggage—Injury to—Penalty.—Any baggage master, or other person, whose duty it is to handle, remove, or take care of the baggage of passengers, who shall wilfully or recklessly injure or destroy any trunk, valise, box, package, or parcel, while loading, transporting, unloading, delivering, or storing the same, shall be punished by a fine not exceeding fifty dollars, or imprisonment not exceeding thirty days.

Crim. Code, '12, § 666; Crim. Code, '02, § 475; G. S. 1450; R. S. 372.

(642) § 8. Penalty for Charge of Unreasonable Rates.—If any railroad corporation organized or doing business in this State under the Act of Corporation or general law of this State now of force, or which may hereafter be enacted, or any railroad corporation organized, or which may hereafter be organized under the laws of any other State, and doing business in this State, shall charge, collect, demand or receive more than a fair and reasonable rate of toll or compensation for transportation of passengers or freight of any description, or for the use and transportation of any railroad car upon its track, or any of its branches, or upon any railroad within this State which it has the right, license or permission to use, operate or control, the same shall be deemed guilty of extortion, and, upon conviction thereof, shall be fined in a sum of not less than one hundred nor more than one thousand dollars.

Crim. Code, '12, § 667; Crim. Code, '02, § 476; G. S. 373; 1892, XXI, 10.

(643) § 9. Unjust Discrimination Prohibited—Penalty.—If any railroad corporation, aforesaid, shall make any unjust discrimination in its rates of charges of toll as compensation for transportation of passengers or freight of any description, or for the use and transportation of any railroad car upon its said road or any branches thereof, or upon any railroads connecting therewith which it has the right, license or permission

to operate or control within this State, the same shall be deemed guilty of having violated the provisions of the law for the regulation of railroad freight and passenger traffic in this State, and, upon conviction thereof, shall be fined in a sum not less than one hundred nor more than one thousand dollars.

Crim. Code, '12, § 668; Crim. Code, '02, § 477; G. S. 374; 1892, XXI, 11.

(644) § 10. Violation of Regulations as to Through Freight.—Any person who shall wilfully violate or aid in violating, or direct or order any one to violate Sections (4871) to (4874) of the Civil Code, as to the transportation of through freight, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment not less than three months nor more than twelve months, or both, in the discretion of the Court.

Crim. Code, '12, § 669; Crim. Code, '02, § 478; 1896, XXII, 121.

(645) § 11. Unlawful for Railroads to Collect for Crossing Bridges—Penalty.—It shall be unlawful for any agent or conductor of any railroad to charge or collect any extra compensation from any passenger for crossing any bridge on any river which may be wholly or partly within this State. Any person violating this Section shall, upon conviction, be deemed guilty of a misdemeanor, and subject to a fine not to exceed one hundred dollars, or to imprisonment not to exceed thirty days.

Crim. Code, '12, § 670; 1906, XXV, 45.

(646) § 12. Penalty for Refusal to Check Baggage.—Any agent or employee of any common carrier of passengers violating the provisions of Section (4950), Civil Code, shall, upon conviction, be deemed guilty of a misdemeanor, and subject to pay a fine not to exceed one hundred dollars, or to be imprisoned for a term not exceeding thirty days.

Crim. Code, '12, § 671; 1904, XXIV, 379.

Fleischman, etc., Co. *v.* Southern Railway, 76 S. C. 237, 241, 56 S. E. 974, 9 L. R. A., N. S., 519.

(647) § 13. Police Powers of Conductors and Station Agents.—Conductors of railroad trains and station or depot agents are hereby declared to be conservators of the peace, and they and each of them shall have the common law power of Constables to make arrests, except that the conductors shall only have such power on board of their respective trains and the agents at their respective places of business; and said conductors and agents may cause any person or persons so arrested by them to be detained and delivered to the proper authorities for trial as soon as practicable. Conductors and other employees of electric railways while in charge of the cars of said railway, are hereby invested with the powers of peace officers and authorized to make arrests as in the case of conductors of steam railroads.

Crim. Code, '12, § 672; Crim. Code, '02, § 482; G. S. 1516; R. S. 1717; 1898, XXII, 776; 1905, XXIV, 954.

(648) § 14. Penalty for Officer or Employee Violating the Law as to Separate Cars for Each Race.—It shall be unlawful for the officers or employees having charge of such railroad cars as are provided for by

Sections (4944) to (4947), inclusive, of the Civil Code, to allow or permit white and colored passengers to occupy the same car, except as herein permitted and allowed; and for a violation of this Section any such officer or employee shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

Crim. Code, '12, § 673; Crim. Code, '02, § 479; 1898, XXII, 777; 1900, XXIII, 457.
Cited in Flood *v.* News and Courier Co., 71 S. C. 112, 50 S. E. 637, 4, Am. & Eng. Ann. Cas. 685.

(649) § 15. Penalty for Passenger Refusing to Obey Law as to Separate Cars.—Any passenger remaining in a car other than that provided for him, after request by the officer or employee in charge of said car to remove into the car provided by him, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars. Jurisdiction of such offenses shall be in the county in which the same occurs. The conductor and any and all employees on such cars are hereby clothed with power to eject from the train or car any passenger who refuses to remain in such car as may be assigned and provided for him, or to remove from a car not so assigned and provided.

Crim. Code, '12, § 674; Crim. Code, '02, § 480; 1898, XXII, 777; 1900, XXIII, 457.
Flood *v.* News, etc. Co., 71 S. C. 112, 118, 50 S. E. 637, 4 Am. & Eng. Ann. Cas. 685.

(650) § 16. Penalty for Loitering in Station Houses, Etc.—Whoever, without right, loiters or remains within any station house of a railroad corporation, or upon the platform or grounds adjacent to such station, after being requested to leave the same by any authorized railroad officer or employee, shall be guilty of a misdemeanor, and, on conviction thereof, shall pay a fine of not more than fifty dollars, or be confined in the county jail, or be required to work on the chaingang for not more than thirty days.

Crim. Code, '12, § 675; Crim. Code, '02, § 481; G. S. 1515; R. S. 1731; 1882, XVIII, 832; 1898, XXII, 776.

(651) § 17. Disorderly Conduct on Trains a Misdemeanor—Such Person to Be Ejected.—Any one who shall in any way be guilty of riotous or disorderly conduct, or who shall conduct himself or herself in any way to the annoyance of the traveling public, on the train, coach or car of any common carrier, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one hundred dollars, or imprisoned for not more than thirty days. Any one conducting himself or herself in the manner herein described shall be subject to be ejected from said coach, train, or car. Any one so ejected shall have no cause of action for such ejectment.

Crim. Code, '12, § 676; 1910, XXVI, 702.

(652) § 18. Misdemeanor to Drink Liquors in Passenger Car.—Any person or persons who shall publicly engage in the drinking of intoxicating liquors in the presence of passengers on any passenger car in the State, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten dollars and not to exceed fifty dollars, or imprisoned not

to exceed thirty days; but this Section shall not apply to any dining or buffet car.

Crim. Code, '12, § 677; 1908, XXV, 1102.

(653) § 19. Penalty for Fraudulently Evading Toll or Fare.—Whoever fraudulently evades or attempts to evade the payment of any toll or fare, lawfully established, for the carrying of passengers, by giving a false answer to the collector of the fare, by traveling beyond the point to which fare has been paid, or otherwise attempting to ride without paying said toll or fare, or by riding without permission on trains that do not carry passengers, or by concealing themselves upon or about any train, with intent to evade the payment of lawful toll or fare, shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine of not more than fifty dollars, or be sentenced to imprisonment or labor on the chaingang for not more than thirty days.

Crim. Code, '12, § 678; Crim. Code, '02, § 483; G. S. 1517; R. S. 1732; 1898, XXII, 776.

(654) § 20. Obstructing Railroads a Crime—Penalty.—Whoever wilfully does or causes to be done anything with intent to obstruct any engine or carriage or car passing upon a railroad or electric railway, or with intent to endanger the safety of persons conveyed in or upon the same, or aids or assists therein, shall be punished by imprisonment in the State Penitentiary not more than five years, by fine not exceeding five hundred dollars, and imprisonment in the county jail not more than one year, and shall forfeit to the use of the corporation for each offense treble the amount of damages proved to have been sustained thereby, to be recovered in an action in any Court of competent jurisdiction.

Crim. Code, '12, § 679; Crim. Code, '02, § 190; G. S. 1521; R. S. 179; 1906, XXVI, 46.

(655) § 21. Shooting or Throwing at Trains a Misdemeanor.—Whoever wilfully discharges any kind of firearms or throws any kind of missile at or into the engine or any car of a train shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than five hundred dollars, or imprisonment for not more than five years.

Crim. Code, '12, § 680; Crim. Code, '02, § 484; R. S. 1734a; 1898, XXII, 776.

Circumstantial evidence; Judge's charge. State *v.* Godfrey, 60 S. C. 498, 39 S. E. 1.
Throwing rocks at train. Loggins *v.* Ry., 64 S. C. 321, 42 S. E. 164.

(656) § 22. Misdemeanor to Place Any Explosive on Railroad Rails.—It shall be unlawful for any unauthorized person or persons to place any explosive substance whatever upon the rail of any railroad, whether operated by steam, electricity or otherwise, in this State, and any person or persons who violates the provisions of this Act, or aids or assists therein, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not more than one hundred dollars, or imprisonment not exceeding thirty days, in the discretion of the Court or Magistrate.

Crim. Code, '12, § 681; 1905, XXIV, 904.

(657) § 23. Unlawful for Railroads to Violate Act of Congress to Regulate Commerce.—It shall be unlawful for any railroad corporation

doing business in this State, or any officer, agent or employee thereof, to do herein any act which constitutes a violation of the Act of Congress entitled "An Act to regulate commerce," or the Acts amendatory hereof, or any order of the Interstate Commerce Commission issued thereunder. Any corporation aforesaid violating this Section shall be guilty of a high misdemeanor and liable to indictment therefor in any county where said offense is committed, and, on conviction, shall be fined not less than one thousand dollars or more than five thousand dollars for each such offense. And the doing of such act or acts in addition shall constitute a ground for the forfeiture of the charter and franchise of any such corporation in this State, and for the withdrawal and forfeiture of any franchise or license or right to operate railroads herein enjoyed or exercised herein by grant, contract, statute or comity by any such corporation chartered elsewhere; and any person or corporation, public or private, injured by any such act of such railroad company, may maintain *quo warranto* in the Circuit Court of the residence, or, if nonresident, of the principal office of such corporation, to enforce such forfeiture, which said Court is hereby given jurisdiction so to decree. Conviction and punishment for a misdemeanor under this Section shall not prevent proceedings also for forfeiture and judgment.

Violation by Agent, Etc., a Misdemeanor.—Any officer, agent or employee doing or engaged in any such act shall be also guilty of a misdemeanor, and, on conviction, shall be punished by a fine not to exceed one thousand ($1,000) dollars and imprisonment not to exceed twelve months, or either or both of these penalties.

Crim. Code, '12, § 682; Crim. Code, '02, § 485; 1897, XXII, 448.

(658) § 24. Unlawful to Take Part in Any Violation of Act.—Every person taking part in the said violation in any way, even in carrying out the orders of superior officers, or in collecting the proceeds of any illegal charge, shall be equally guilty of a violation of Section (657); and the offense shall be equally held to have been committed in the county where said act is finally carried out, or where any illegal charge is collected, as well as where the act or charge is ordered or agreed upon, or any step taken in execution thereof.

Crim. Code, '12, § 683; Crim. Code, '02, § 486; 1897, XXII, 448.

(659) § 25.—Each Act a Separate Offense.—Each act done in violation of said Section (657) to regulate commerce, its amendments, or of any orders of said Commission, or of each separate failure to obey the same, or discrimination, or preference, or overcharge to each separate person or corporation, shall constitute, both as to the railroad company offending or said officers, agents or employees, separate offenses hereunder, and render the corporation or person offending liable to successive indictment and punishment therefor.

Command of Superior Officer No Defense.—No command of a superior officer shall constitute any defense or excuse for a violation of Section (657) by an inferior.

Crim. Code, '12, § 684; Crim. Code, '02, § 488; 1897, XXII, 448.

(660) § 26. Railroad Companies Required to Furnish Shippers of Live Stock Certain Information.—Any railroad company doing business in South Carolina shall be required to furnish the owner, or shipper, or their agents, full information concerning the shipment, movement and delivery of live stock when en route, and on said company's line or in said company's possession. If company cannot make time published in schedule, they must, whenever as much as three hours behind schedule time, wire owner and agent at destination extent of and cause of delay, and advise him of expected time of arrival. Upon failure to furnish such information, and upon failure to give shipper benefit of best connection as published in schedule, railroad company shall pay a fine not more than twenty-five dollars: *Provided,* That nothing herein contained shall interfere with the transmission of train orders: *Provided, further,* That in the event of failure upon the part of any common carrier to give the information herein required, it shall be incumbent upon such common carrier affirmatively to show that such failure was due to the necessary use of the wire, or wires, for transmission of train orders.

Crim. Code, '12, § 685; 1906, XXV, 114.

(661) § 27. Unlawful for Certain Steamboat Lines to Change Schedule Without Notice—Penalty.—It shall be unlawful for any steamboat company, firm or corporation, running a line of boats from Savannah to Bluffton, South Carolina, and way stations, and return on a regular schedule, to change their schedule without giving ten days notice of said change by posting same in a conspicuous place at each landing.

Any steamboat company, firm or corporation violating the provisions of this Section, shall be subject to a fine of not less than $50 and not more than $100.

Crim. Code, '12, § 686; 1911, XXVII, 150.

(662) § 28. Railroad Corporations to Pay Railroad Shop Employees Semi-monthly.—All railroad corporations doing business in this State shall pay their employees engaged in work in their shops semi-monthly: *Provided,* That nothing contained in this Section shall apply to railroads owning, leasing or operating less than 35 miles in South Carolina. Any railroad corporation violating the provisions of this Section shall, upon conviction in any Court of competent jurisdiction, be liable to a fine of not more than one hundred ($100.00) dollars, or less than twenty-five ($25.00) dollars.

1914, XXVIII, 699.

(663) § 29. Punishment for Violations of Provisions of Civil Code as to Explosives.—Whoever knowingly violates or knowingly causes or permits the violation of any provision of Sectons (4936) and (4937) of the Civil Code, or knowingly transports or causes or permits the transportation of any explosive compound, in any manner other than in conformity with the rules made by the Railroad Commissioners, shall be punished by a fine of not less than fifty nor more than five thousand dollars, or by imprisonment in the State prison not exceeding five years.

Civ. '12, § 3243; Civ. '02, § 2152; G. S. 1506; R. S. 1705; 1882, XVII, 830.

CHAPTER XIII.

Violation of the Law Regulating the Assessment and Collection of Taxes.

(664) § 1. Auditor May Compel Oath.—Any person claiming not to have any property shall, upon the demand of the Auditor, make oath to the fact that he has no property; and if he refuse to make such oath he shall be deemed guilty of a misdemeanor, and, upon complaint of such Auditor to the Court of General Sessions of the county, and upon conviction thereof, shall be arrested and confined in the jail of the county until he answers such questions, under oath, as may be propounded to him by such Auditor, and pay the costs of the proceedings.

Crim. Code, '12, § 687; Crim. Code, '02, § 490; G. S. 212; R. S. 375; 1882, XVII, 1004.

(665) § 2. Penalty for Refusing to Appear Before Auditor.—If any person notified, either as a party or witness, to appear before the County Auditor at a time fixed in said notice to be examined by said Auditor, under oath, touching the personal property and the value of such property, and everything which may tend to evince the true amount of such property returned for taxation, shall refuse or neglect to appear as notified, or shall refuse to be sworn, or refuse to answer any question put to him by said Auditor touching the matter under examination as aforesaid, he shall be deemed guilty of a misdemeanor and be liable to indictment therefor in the Court of General Sessions. Upon conviction thereof, or of any said refusals, or of such neglect, he shall be fined in any sum not exceeding one hundred dollars and costs of prosecution, and be confined in county jail of said county until answer shall be made to all questions which may be propounded to him by said Auditor and such fine and costs paid; and when such fine is collected it shall be paid into the County Treasury to the credit of the county. In every such case the County Auditor shall report the facts to the Solicitor of the Circuit, who shall forthwith prepare an indictment thereon and submit the same to the grand jury.

Crim. Code, '12, § 688; Crim. Code, '02, § 491; G. S. 240; R. S. 376; 1882, XVII, 1004.

(666) § 3. Nonpayment of Poll Tax.—Any person failing or refusing to pay his poll tax within the time prescribed by law, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding ten dollars, together with costs of said suit, or by imprisonment at hard labor on the public works of the county not more than twenty days: *Provided,* That the county shall not pay the costs or fees of any Constable or Sheriff for the execution of any warrant or other process issued in any case by virtue of the provisions of this Section, unless the defendant in such case shall be arrested and convicted.

Crim. Code, '12, § 689; Crim. Code, '02, § 492; R. S. 377; 1892, XXI, 43; 1899, XXIII, 120; 1901, XXIII, 780; 1908, XXV, 1245.

Affidavit for warrant: Rogers *v.* Marlboro County, 32 S. C. 555, 11 S. E. 383.

(667) § 4. Railroad Officer, Agent or Receiver Refusing to Answer Question by Comptroller General.—If any officer, receiver or agent of any railroad company having any portion of its tracks in this State shall

refuse or neglect to appear before the Comptroller General, or the person appointed by him, or to answer any question put to him or them, as provided for in Section 336 of the Civil Court, or submit the books and papers aforesaid for examination, in manner provided in said Section, he shall be deemed guilty of a misdemeanor, and, upon indictment and conviction therefor in the Court of General Sessions for any county (which Court shall have complete and full jurisdiction in all such cases), shall be fined in any sum not exceeding five thousand dollars and costs of prosecution, and confined in the jail of said county until he answers all questions which may be put to him by the Comptroller General until said fine and costs be paid.

Crim. Code, '12, § 690; Crim. Code, '02, § 493; R. S. 378; 1882, XVII, 902.

(668) § 5. Perjury to Testify Falsely Before Tax Commission.—Any person who shall testify falsely in any matter under consideration by the Tax Commission shall be guilty of, and punished for, perjury.

1915, XXIX, 125.

(669) § 6. Evasion of License Fees in Colleton County—Failure to Pay a Misdemeanor.—If any of the parties liable to a license as described by Sections (1412) to (1413), and who shall fail or refuse to pay the said license as the same shall become due under the provisions of said Section, said parties shall be liable to prosecution in the Magistrate's Court and subject to a fine, in case of conviction, in a sum not less than five dollars nor more than twenty-five dollars, or of imprisonment of not less than five days nor more than ten days, in the discretion of the Magistrate.

1918, XXX, 834.

(670) § 7. Violation of Vehicle License Law in Clarendon County a Misdemeanor—Penalty.—Any person operating a vehicle required to be registered under the provisions of Sections (1276) to (1285), Civil Code, upon any road of said county, without having obtained a license therefor, or without having a sign or marker, as therein provided, displayed in the rear of said vehicle, shall be deemed guilty of a misdemeanor, and shall be subject to a fine not exceeding twenty-five dollars or imprisonment not exceeding thirty days.

1920, XXXI, 922.

(671) § 8. Evasion of Vehicle License in Darlington County.—Any corporation, firm, person or persons violating any provisions of Section (1445-1448), Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction thereof by any Court of competent jurisdiction, shall be liable to a fine of not less than ten dollars nor more than one hundred dollars, or imprisonment upon the public works for not less than ten days nor more than thirty days.

1918, XXX, 850.

(672) § 9. Evasion of Licenses in Dorchester County.—Any violation of Sections (1488) to (1491), Civil Code, shall be punishable by a fine of not exceeding one hundred dollars or imprisonment not exceeding thirty days.

1917, XXX, 282.

(673) § 10. Evasion of Vehicle License in Williamsburg County.—Any person, persons, firms or corporations who are residents or have their place of business, operating or causing to be operated, any vehicle upon the roads of Williamsburg County without having first procured a license therefor as provided in Section (2013), Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than five nor more than twenty dollars, or imprisoned not more than thirty days, at the discretion of the Court, for each offense: *Provided,* That any person, firm or corporation purchasing such license shall be required to display on the vehicle for which such license has been acquired, the tag with the number thereon, such tag to be in such place on said vehicle as shall be easily seen by any person meeting or approaching said vehicle, and any violation of this provision shall be deemed to be a misdemeanor and punishable as required by this Act for refusal to purchase said license.

1919, XXXI, 196; 1920, XXXI, 991; 1921, XXXII, 155.

(674) § 11. Owning or Harboring of Dog, Without Return and Payment of Tax a Misdemeanor—Penalty—Disposition of Fine.—Any person owning, harboring or maintaining a dog failing or refusing to return and pay the tax provided in the Civil Code, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five ($5.00) dollars nor more than twenty ($20.00) dollars, one-half of which shall go to the person reporting said failure to pay said tax, and one-half to the public school fund in which said derelict occurs.

1920, XXXI, 1082.

(675) § 12. Nonpayment of Game Preserve License a Misdemeanor —Penalty.—The license fees provided for in Chapter LXI, Civil Code, shall be a first lien upon the property upon which it is placed, and any persons, firms, corporations or associations failing or refusing to pay the license hereby imposed shall be guilty of a misdemeanor and punishable by fine or imprisonment in the discretion of the Court.

1920, XXX, 988.

(676) § 13. Failure to Pay Special Road Tax.—Any failure on the part of any one liable therefor to pay the special road or commutation road taxes as required by law, in Abbeville, Berkeley, Dorchester, or Calhoun Counties, shall be a misdemeanor and shall be punished in Abbeville County by a fine of not less than five dollars nor more than fifty dollars, or by imprisonment for not more than thirty days; in Berkeley County by a fine of not less than five dollars nor more than twenty dollars, or imprisonment for not more than thirty days; in Calhoun and Dorchester Counties, by a fine of not less than five nor more than fifty dollars, or by imprisonment for not more than thirty days.

Crim. Code, '12, § 640.

(677) § 14. Penalty for Evasion.—Commutation Tax in Aiken County. —That any person failing or refusing to pay the said commutation tax shall be fined in the sum of not more than twenty-five ($25.00) dollars,

or imprisonment for not more than thirty days by any Court of competent jurisdiction.

1921, XXXII, 192.

(678) § 15. Nonpayment of Road Tax in Allendale County a Misdemeanor—Penalty.—Any person or persons failing or refusing to pay said tax or perform labor on said roads as provided in Section (1186), Civil Code, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than five dollars nor more than fifty dollars, or imprisonment for not more than thirty days.

1919, XXXI, 90, 293; 1920, XXXI, 854.

(679) § 16. Failure to Pay Road Tax in Bamberg County a Misdemeanor.—All persons who are liable to road duty in said county, as fixed in Section (2962), Civil Code, in lieu of performing, or causing to be performed, labor upon the public highways of said county, shall be required to pay to the County Treasurer of said county an annual commutation or road tax of four dollars per head, which shall be expended upon the public roads of the county, and, as nearly as possible, within the school district from which it was collected; and any failure to pay said road tax shall be a misdemeanor, and the offender, upon conviction, shall be punished by a fine of not less than five dollars and not more than fifty dollars, or imprisoned for not more than thirty days.

Civ. '12, § 1981; 1911, XXVII, 192; 1912, XXVII, 632; 1915, XXIX, 194; 1920, XXXI, 771; 1921, XXXII, 103.

(680) § 17. Evasion of Road Tax in Barnwell County—Failure to Pay Tax a Misdemeanor.—Any person liable to road duty in Barnwell County failing to pay commutation tax shall be deemed guilty of a misdemeanor, and, upon conviction thereof, fined not less than five dollars nor more than twenty dollars, or be confined at hard labor for a period of twenty days.

Civ. '12, § 1989; 1911, XXVII, 175.

(681) § 18. Failure to Pay Commutation Tax in Beaufort County a Misdemeanor—Penalty.—Any person in Section (2965-2966) Civil Code, made liable to the payment of said road tax who shall fail to make such payment shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five ($5.00) dollars nor more than ten ($10.00) dollars, or by imprisonment for not less than ten nor more than thirty days.

1913, XXVIII, 176; 1914, XXVIII, 697; 1915, XXIX, 445; 1916, XXIX, 898; 1917, XXX, 252; 1919, XXXI, 193; 1921, XXXII, 233.

(682) § 19. Evasion of Road Duty in Chester County.—Any person in Chester County liable to road duty who shall fail or refuse without lawful excuse to appear and render the service required of him in person or by substitute after receiving twenty-four hours notice or warning in writing of the time and place he is to report for duty shall be guilty of a misdemeanor and punishable by a fine of not exceeding twenty-five ($25.00) dollars or imprisonment at hard labor not exceeding thirty (30) days.

1913, XXVIII, 173; 1916, XXIX, 851; 1920, XXXI, 816.

(683) § 20. Commutation Road Tax in Chesterfield County—Nonpayment a Misdemeanor—Penalty—Disposition of Fines.—Any person liable to road duty in Chesterfield County under Section (1388), Civil Code, and failing to pay said road tax shall be guilty of a misdemeanor, and, upon conviction, shall pay a fine of not less than ten ($10.00) dollars, nor more than fifty ($50.00) dollars, or be imprisoned for not less than ten days nor more than thirty days, in the discretion of the Court, and all fines collected for the nonpayment of said road tax shall be credited to the road fund of the township where such party failing to pay same resides.

1916, XXIX, 853; 1918, XXX, 864; 1919, XXXI, 192; 1920, XXXI, 1034.

(684) § 21. Evasion of Road Tax in Clarendon County a Misdemeanor—Penalty.—Any person in Clarendon County made liable to the payment of road tax, who shall fail to make such payment when due, or who shall fail or refuse to work on the said roads, after having been warned by the said overseer, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five ($5.00) dollars and not more than twenty-five ($25.00) dollars, or by imprisonment of not less than ten nor more than thirty days.

1919, XXXI. 78; 1920, XXXI, 879; 1921, XXXII. 59.

(685) § 22. Commutation Road Duty in Darlington County—Evasion a Misdemeanor—Penalty.—Any persons in Darlington County liable to road duty who shall fail or refuse, without lawful excuse, to appear and render the service required of him in person, or by substitute, after receiving twenty-four hours notice or warning in writing of the time and place he is to report for duty, shall be guilty of a misdemeanor, and punishable by a fine of not exceeding twenty-five ($25.00) dollars, or imprisonment at hard labor not exceeding thirty days.

Civ. '12, §§ 2033, 2034; 1908, XXV, 1197; 1914, XXVIII, 757; 1920, XXXI, 834.

(686) § 23. Evasion of Commutation Tax in Edgefield County a Misdemeanor—Penalty—Proviso.—All persons who are liable to the payment of commutation or road tax in Edgefield county, who shall fail to pay such commutation or road tax when the same becomes due, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than eight ($8.00) dollars and not more than twenty-five ($25.00) dollars, or imprisonment of not less than ten (10) days nor more than thirty (30) days: *Provided*, That any person liable to penalty for nonpayment of road tax may pay the amount of said penalty to the Sheriff or County Treasurer or County Supervisor and said officers are authorized to accept eight ($8.00) dollars in full payment of said penalty when voluntarily paid by the person so liable.

1921, XXXII, 257.

(687) § 24. Failure to Pay Tax or Work Roads in Fairfield County Misdemeanor.—Any persons liable under Section (1511), Civil Code, to road duty and failing to pay said road tax shall be guilty of a misdemeanor, and, upon conviction, shall pay a fine of not less than ten ($10.00) dollars nor more than fifty ($50.00) dollars, or be imprisoned

for not less than ten days nor more than thirty days, in the discretion of the Court, and all fines collected for the nonpayment of said commutation road tax shall be credited to the road fund of the township where such party failing to pay the same resides.

1915, XXIX, 595; 1921, XXXII, 75.

(688) § 25. Failure to Pay a Road Tax in Florence County a Misdemeanor—Penalty.—Any person in Florence County liable to payment of road tax who shall fail to make such payment shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine of not less than five ($5.00) dollars and not more than ten ($10.00) dollars, or by imprisonment of not less than ten nor more than thirty days.

1919, XXXI, 122.

(689) § 26. Nonreturn for, or Nonpayment of, Commutation Road Tax in Georgetown County a Misdemeanor—Penalty.—Any person under Section (1548), Civil Code, made liable for the payment of said capitation road tax, who shall fail to make such payment when same is due, or who fails to list said tax at the time provided for listing the same with the Auditor, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine in a sum not less than five ($5.00) dollars and not more than ten ($10.00) dollars, or by imprisonment for not less than ten (10) days or more than thirty (30) days.

1912, XXVII, 682; 1920, XXXI, 1096.

(690) § 27. Failure to Pay Road Tax in Greenville County a Misdemeanor—Penalty—Proviso.—All persons who are liable to the payment of commutation or road tax in Greenville County, who shall fail to pay such commutation or road tax when the same becomes due, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than five dollars and not more than twenty-five dollars, or imprisonment of not less than ten days nor more than thirty days: *Provided*, That any person liable to penalty for nonpayment of road tax may pay the amount of said penalty to the Sheriff or County Treasurer, and said officers are authorized to accept $5.00 in full payment of said penalty when voluntarily paid by the person so liable.

1917, XXX, 283.

(691) § 28. Evasion of Road Tax in Greenwood County a Misdemeanor—Penalty.—Any person in Section (1614), Civil Code, made liable to the payment of said road tax who shall fail to make such payment shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine of not less than five ($5.00) dollars and not more than ten ($10.00) dollars, or by imprisonment of not less than ten or more than thirty days.

1920, XXXI, 942.

(692) § 29. Failure to Pay Road Tax in Hampton County a Misdemeanor.—All persons who are liable to road duty as provided in Section (1637), Civil Code, in lieu of performing, or causing to be performed, labor upon the highways of said county, shall be required to pay to the

County Treasurer of said county an annual commutation road tax of two dollars per head, which shall be expended upon the public roads of the county, and as nearly as possible, within the township from which it was collected; and any failure to pay said road tax shall be a misdemeanor, and the offender, upon conviction, shall be punished by a fine of not less than five dollars nor more than fifty dollars, or imprisoned for not more than thirty days.

Civ. '12, § 1981; 1911, XXVII, 192; 1915, XXIX, 194.

(693) § 30. Evasion of Road Duty in Horry County a Misdemeanor. —Any person liable to road duty under Sections (1663) to (1664), Civil Code, and not having paid his commutation road tax in lieu thereof by the aforesaid date or dates, and who shall fail to work the full six days when required to do so, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than twenty ($20.00) dollars, or by imprisonment of not more than thirty days at hard labor.

1912, XXVII, 582; 1915, XXIX, 465.

(694) § 31. Misdemeanor Not to Pay Road Tax in Jasper County. —Any person in Jasper County who shall fail to pay commutation tax shall be guilty of a misdemeanor, and, upon conviction thereof by any Court of competent jurisdiction, shall be punished by a fine of not less than five dollars nor more than twenty dollars, or be confined at hard labor upon the public works of said county for not less than ten days nor more than thirty days.

1913, XXVIII, 173.

(695) § 32. Evasion of Road Tax in Kershaw County a Misdemeanor —Penalty.—Any person in Section (1683), Civil Code, made liable to the payment of road tax who shall fail to make such payment shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine of not less than five ($5.00) dollars and not more than ten ($10.00) dollars, or by imprisonment of not less than ten or more than thirty days.

1912, XXVII, 846; 1920, XXXI, 951.

(696) § 33. Failure to Pay Road Tax in Lancaster County a Misdemeanor.—All such persons failing or refusing to perform such labor, or pay said tax provided in Sec. (1701), Civil Code, shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not less than twenty ($20.00) dollars, nor more than one hundred ($100.00) dollars, or imprisonment for not exceeding thirty (30) days.

Civ. '12, § 2061; 1911, XXVII, 171; 1920, XXXI, 933; 1921, XXXII, 88.

(697) § 34. Evasion of Road Tax in Laurens County a Misdemeanor —Penalty.—All persons liable to commutation or road tax of Laurens County, who shall fail to pay such commutation or road tax when same shall become due, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than ten ($10.00) dollars, nor more than twenty-five ($25.00) dollars, or imprisonment not less than ten nor more than thirty days: *Provided*, That any person liable to penalty

for nonpayment of said tax may pay the amount due and costs to the Sheriff when such payment is voluntarily made.
1920, XXXI, 967.

(698) § 35. Persons Liable for Road Duty in Lee County to Pay Tax—Penalty.—All persons who are liable to road duty in said county, as fixed by Section (2992), Civil Code, in lieu of performing or causing to be performed, labor upon the public highways of said county, shall be required to pay to the County Treasurer of said county at the same time other taxes are paid, an annual commutation or road tax of two dollars per head, which shall be expended upon the public roads of the county, and as nearly as possible from the township from which it was collected. Said tax to be collected as poll tax is now collected, and any failure to pay said road tax shall be a misdemeanor, and the offender, upon conviction, shall be punished by a fine of not less than five dollars and no more than fifty dollars, or imprisoned for not more than thirty days.
1912, XXVII, 855; 1913, XXVIII, 32.

(699) § 36. Violation of Road Law in Lexington County—Penalty.—That all persons violating any of or all sections (1722-1749), Civil Code, shall be guilty of a misdemeanor, and, upon conviction, subject to a fine of not less than twenty-five ($25.00) dollars nor more than fifty ($50.00) dollars or not less than twenty-five days nor more than sixty days on the county chain gang.
1921, XXXII, 81.

(700) § 37. Failure to Pay Tax or Labor in McCormick County a Misdemeanor—Penalty.—Any person or persons failing or refusing to pay said tax or perform labor on said roads, as provided in Section (2994), Civil Code, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than five dollars nor more than fifty dollars, or imprisonment for not more than thirty days.
1917, XXX, 288.

(701) § 38. Commutation Tax in Marion County—Work in Lieu Thereof—Penalty.—All persons who are liable to road duty in said county as fixed in Section (1758), Civil Code, in lieu of performing or causing to be performed, labor upon the public highways of said county, shall be required to pay to the County Treasurer of said county before March 15th in each and every year an annual commutation or road tax of two dollars per head: *Provided*, That all persons who are liable to road duty in said county, as fixed in said Section, in lieu of paying said commutation or road tax, may perform six days labor of ten hours each on the highways, five days of which shall be performed by or before October 15th, in each and every year, and any person who shall elect to perform said work, in lieu of paying said commutation tax, shall be furnished by overseer of his road district a certificate setting forth the fact that he has worked full time, and the filing of said certificate with the County Treasurer, and the receipt of the latter therefor, shall be satisfaction of said tax or labor, and any failure to pay said road tax or perform such

labor shall be a misdemeanor, and the offender, upon conviction, shall be punished by a fine of not less than ten dollars and not more than twenty-five dollars, or imprisonment for not more than thirty days, out of which fine the Magistrate shall be allowed to retain two dollars as compensation for his services therein.

1912, XXVII, 842; 1916, XXIX, 859; 1917, XXX, 243; 1919, XXXI, 279.

(702) § 39. Commutation Road Tax in Marlboro County—Road Duty —Evasion a Misdemeanor—Penalty.—From and after January 1, 1921, all able-bodied male persons between the ages of eighteen and fifty, both inclusive, residing in Marlboro County, not exempt under the general law, except those who are required to perform road duty or pay a commutation tax in incorporated cities or towns, shall be subject to road duty, and shall be required to perform, or cause to be performed, annually, six days labor upon the roads of the county with respect to roads and highways in which he shall reside: *Provided*, All persons subject to road duty may, in lieu of performing such labor, pay to the County Treasurer, on or before the first day of March of each year, the sum of one dollar and a half per annum as commutation tax. All persons subject to road duty who shall fail to pay the commutation tax, herein provided, shall be called out to and caused to labor, or to furnish an acceptable substitute for the required number of days each year, at the direction of the Supervisor of Roads, or his duly authorized deputy or agent, and under such rules and regulations as the Board may prescribe. Any person liable to road duty, who shall fail or refuse, without lawful excuse, to appear and render the service required of him, in person, or by acceptable substitute, after receiving twenty-four hours notice or warning in writing of the time and place he is required to report for duty, shall be guilty of a misdemeanor, and punished by a fine of not exceeding twenty-five ($25.00) dollars, or imprisonment at hard labor not exceeding thirty days.

1915, XXIX, 581; 1916, XXIX, 862; 1920, XXXI, 1016.

(703) § 40. Commutation Road Tax for Oconee County—Failure to Pay a Misdemeanor—Penalty.—"That all able-bodied male persons residing in Oconee county, between the ages of 21 and 50 years, inclusive, shall each be liable for the payment of an annual commutation road tax of two and fifty one-hundredths ($2.50) dollars, which shall be due and payable between the 15th day of October and the 15th day of March of each and every year, except ministers of the Gospel actually in charge of congregations, persons permanently disabled in the military service of this State and of the United States, and persons who served in the late War Between the States, school trustees, school teachers actually engaged in teaching school and all persons physically unable to do manual labor and all persons residing within any corporate city or town of said County: *Provided*, That any person claiming exemption from the provisions of this Section on the ground of physical disability, where such disability is not apparent, shall be required to give a certificate of disability from two regular physicians: *Provided, further*, That in the event of the failure to pay same within said dates of any one liable therefor, he

shall be guilty of a misdemeanor and shall pay a fine of not less than ten ($10.00) dollars nor more than twenty ($20.00) dollars, or be confined to the public works on the roads of Oconee county for not more than ten (10) days.

1912, XXVII, 846; 1913, XXVIII, 174; 1917, XXX, 764; 1920, XXXI, 764; 1921, XXXII, 108.

(704) § 41. Commutation Tax in Richland County.—All persons who are liable to road duty in said county as fixed by Section (3004), Civil Code, in lieu of performing or causing to be performed labor upon the public highways of said county, shall be required to pay the County Treasurer of said county, between the 15th day of October and the 31st day of December in each and every year, an annual commutation or road tax of one dollar per head, which shall be expended upon the public roads of the county, and as nearly as possible in the township from which it was collected; and any failure to pay road tax shall be a misdemeanor, and the offender, upon conviction, shall be punished by a fine of not less than five dollars and not more than fifty dollars, or imprisoned for not more than thirty days.

Civ. '12, § 2094; 1911, XXVII, 181; 1912, XXVII, 537; 1918, XXX, 752.

(705) § 42. Penalty for Failure to Pay Road Tax in Spartanburg County.—All persons who are required to pay said road tax, in Spartanburg County, as fixed by Section (1903), Civil Code, shall pay the same to the County Treasurer of said county between the 15th day of October and the 15th day of March in each and every year, and it shall be expended upon the public roads of said counties, and any failure to pay said road tax shall be a misdemeanor, and the offender, upon conviction, shall be punished by a fine of not less than five ($5) dollars and not more than twenty-five ($25) dollars, or imprisonment for not more than thirty (30) days, out of which fine the Magistrate shall be allowed to retain two ($2) dollars as compensation for his services therein, and the Constable serving the warrant, one dollar, and the same process and proceedings shall be had and taken as in cases of default in payment of poll tax.

1912, XXVII, 846.

(706) § 43. Commutation Tax in Union County.—All persons who are liable to road duty as fixed by Section (1950), Civil Code, in lieu of performing or causing to be performed labor upon the public highways of said county, shall be required to pay to the County Treasurer of said county, at the same time other taxes are paid, an annual commutation or road tax of $2.00 per head, which shall be expended upon the public roads of the township from which collected. Said tax to be collected as poll tax is now collected, and any failure to pay said road tax shall be a misdemeanor, and the offender, upon conviction, shall be punished by a fine of not less than $5.00 and not more than $50.00, or imprisonment for not more than thirty days.

Civ. '12, § 1121, 2112; 1908, XXV, 1191; 1909, XXVI, 138; 1913, XXVIII, 39; 1916, XXIX, 868; 1919, XXXI, 196.

CHAPTER XIV.

Bastardy.

(707) § 1. Reputed Father of Bastard to Maintain It—To Give Bond, Etc.—If any woman be delivered of a bastard child or children, and shall, at any time after the birth thereof, give information to some Magistrate of the county in which she resides, or may be so delivered, and will declare, on oath, who is the father of her child or children, it shall be the duty of such Magistrate to issue a warrant to apprehend and bring before him, or some other Magistrate, the person so accused, who shall be obliged to enter into a recognizance with two good and sufficient sureties, in the penal sum of three hundred dollars, conditioned for the annual payment of twenty-five dollars for the maintenance of the child until the age of twelve years, and so to save harmless the said county.

Crim. Code, '12, § 691; Crim. Code, '02, § 494; G. S. 1579; R. S. 379; 1795, V, 270; 1839, XI, 24.

Conviction may be had on uncorroborated testimony of the mother. State *v.* Meares, 60 S. C. 527, 39 S. E. 245.

Such recognizance is the judgment of the Court, and while unreversed cannot be questioned. State *v.* Harman, 3 Hill 275.

A voluntary bond for maintenance of bastard is good at common law. Commissioner *v.* Gilbert, 2 Strob. 154.

The child of a married woman may be a bastard. State *v.* Schumpert, 1 S. C. 87.

Presumption as to legitimacy. Kennington *v.* Catoe, 68 S. C. 470, 47 S. E. 719.

Where the proceeding began before the child attained the age of twelve years, the father, upon conviction, may be required to enter recognizance to pay twenty-five dollars a year, commencing from the birth of the child, until that age. State *v.* Sarratt, 14 Rich. 29.

The annual installments to be paid do not bear interest in default of payment. *Ib.*

A prosecution for bastardy is a criminal proceeding; the money to be paid is not a debt, and the defendant may be confined on execution. State *v.* Brewer, 38 S. C. 263, 16 S. E. 1001.

Original jurisdiction is in the General Sessions. State *v.* Glenn, 14 S. C. 118.

EVIDENCE—

Attempt to compromise, etc. State *v.* Rucker, 86 S. C. 66, 68 S. E. 133.

INDICTMENT—

The question to be tried is whether defendant is the father of the child, or not. State *v.* Adams, 1 Brev. 279. Not necessary to allege child is likely to be a burden on the County. State *v.* McDonald, 2 McC. 299. Insufficient indictment. State *v.* Caspary, 11 Rich. 356.

Magistrate may bind over to Circuit Court one shown to be probably guilty, where he denies the paternity and refuses to enter into recognizance. State *v.* Edens, 88 S. C. 302.

(708) § 2. Women Refusing to Declare Father of Bastard to Be Committed to Jail or Give Security.—When any woman, who is charged with having had a bastard child or children, shall be brought before a Magistrate and shall not voluntarily give such information, such Magistrate may on information thereof, and that such child is likely to become a burden to the county, issue his warrant against such mother, requiring her to be brought before him, or the next Magistrate, and declare who is the father, and, on her refusal so to declare, the Magistrate aforesaid shall commit her to jail until she shall declare the same, or shall give security that the said bastard child shall not become chargeable to the county wherein she resides.

Crim. Code, '12, § 692; Crim. Code, '02, § 495; G. S. 1580; R. S. 380; 1839, XI, 24.

It is not necessary to a conviction for bastardy where the information is given, not by the mother, but by a third person, that the child is likely to become a burden to the County. State *v.* Crawford, 10 Rich. 361.

(709) § 3. Resistance of Warrant Ground for Indictment.—Should the person accused evade or resist the warrant so issued, it shall be the duty of the Constable to return the same to the Clerk of the Court as other Sessions papers, with a special note thereof, by way of return, on oath, whereupon a bill of indictment may be given out, and, if found, a bench

warrant may issue, and, in case the accused shall be arrested on any warrant issued and shall refuse to enter into such recognizance, he shall be committed to prison, there to remain until he shall enter into such recognizance.

Crim. Code, '12, § 693; Crim. Code, '02, § 496; G. S. 1581; R. S. 381; 1938, XI, 24.

(710) § 4. Issue for Jury on Denial by Reputed Father—Security Etc., on Conviction.—Should such person be unable to comply with the requisitions hereinbefore mentioned, or should he deny that he is the father of the said child or children, a jury shall be charged, in the Court of Sessions, to try the question whether the accused is or is not the father of such child or children; and on his acquittal he shall be discharged; or, if convicted, he shall be required to give the security or recognizance hereinbefore required; and on default thereof, shall be liable to execution, as are defendants convicted of misdemeanors: *Provided,* That on the annual payment of the sum of twenty-five dollars, the execution, except as to costs, shall be stayed until another installment falls due.

Crim. Code, '12, § 694; Crim. Code, '02, § 497; G. S. 1582; R. S. 382; 1847, XI, 436.

Indictment for twin bastards should describe each child by name and complexions, hair and sex, or by some means of separate identity. State *v.* Derrick, 1 McM. 339.

There is no law authorizing the Court to imprison a person convicted of bastardy. State *v.* Glenn, 14 S. C. 134; State *v.* Quick, 25 S. C. 110.

But defendant may be be confined in jail on execution. State *v.* Brewer, 38 S. C. 263, 16 S. E. 1001.

(711) § 5. In Case of Twins, Recognizance to Be for Support of Both, Etc.—If the birth be of twins, the recognizance or judgment shall be conditioned for the support of both the bastards, and for the payment of double the amounts required in the case of a single child.

Crim. Code, '12, § 695; Crim. Code, '02, § 498; G. S. 1583; R. S. 383; 1795, V, 270.

Such recognizance must identify each child separately. State *v.* Derrick, 1 McM. 339.

CHAPTER XV.

Vagrancy.

(712) § 1. Who to Be Deemed Vagrants—Punishment.—All persons wandering from place to place, without any known residence, or residing in any city, county or town, who have no visible or known means of gaining a fair, honest and reputable livelihood; all suspicious persons going about the country, swapping and bartering horses (without producing a certificate of his or their good character signed by a Magistrate of the county from which said person last came); likewise all persons who acquire a livelihood by gambling or horse-racing, without any other visible means of gaining a livelihood; all keepers of gaming tables, faro banks, or other banks whatsoever used for gaming known under any other denomination; also, all persons who lead idle and disorderly lives; all who knowingly harbor horse thieves and felons, and those who are known to be of that character and description; likewise all persons not following some handicraft, trade or profession, or not having some known or visible means of livelihood, who shall be able to work, and occupying or being in possession of some piece of land, shall not cultivate such a quantity thereof as shall be deemed by the Magistrate to be necessary for the maintenance of him-

self and his family; also, all persons representing publicly for gain or reward, without being fully licensed, any play, comedy, tragedy, interlude or farce, or other entertainment of the stage, or any part thereof; all fortune tellers for fee or reward, and all sturdy beggars, are, and shall be, deemed vagrants, and, upon conviction thereof before a Court of Magistrate, shall be fined in a sum not exceeding one hundred dollars or thirty days imprisonment.

Crim. Code, '12, § 696; Crim. Code, '02, § 499; G. S. 1604; R. S. 384; 1787, V, 41; 1839, XI, 24; 1893, XXI, 521.

State *v.* Maxey, 1 McM. 501.

CHAPTER XVI.

Non-Observance of the Lord's Day, and Disturbing Religious Worship.

(713) § 1. Penalty for Working on Sunday.—No tradesman, artificer, workman, laborer, or other person whatsoever, shall do or exercise any worldly labor, business, or work of their ordinary callings upon the Lord's Day (commonly called the Sabbath), or any part thereof (work of necessity or charity only excepted); and every person being of the age of fifteen years or upwards, offending in the premises, shall, for every such offense, forfeit the sum of one dollar.

Crim. Code, '12, § 698; Crim. Code, '02, § 500; G. S. 1631; R. S. 385; 1691, II, 69; 1712, II, 396.

The violation of this Section does not render the required publication of a legal notice made in a newspaper issued on the Sabbath illegal and invalid. Eason *v.* Witcofskey, 29 S. C. 239, 7 S. E. 291.

Telegraph office open, work of necessity. Smith *v.* W. U. Tel. Co., 72 S. C. 116, 51 S. E. 537.

(714) § 2. Penalty for Selling Goods on Sunday.—No person or persons whatsoever shall publicly cry, show forth, or expose to sale, any wares, merchandise, fruit, herbs, goods, or chattels whatsoever, upon the Lord's Day, or any part thereof, upon pain that every person so offending shall forfeit the same goods so cried, or showed forth, or exposed to sale.

Crim. Code, '12, § 699; Crim. Code, '02, § 501; G. S. 1632; R. S. 386; 1712, II, 396.

Doing several different acts in pursuance of an ordinary business calling on one day is but one offense. State *v.* James, 81 S. C. 197, 62 S. E. 214, 128 Am. St. Rep. 902, 16 Am. & Eng. Ann. Cas. 277, 18 L. R. A., N. S., 617n.

Sale of ice and meats not a work of necessity. *Ib.*

City cannot license sales in violation of law. Cain *v.* Daly, 74 S. C. 485, 55 S. E. 110.

Embraces machines automatically vending mercantile wares on Sunday. Cain *v.* Daly, 74 S. C. 480, 55 S. E. 110.

State *v.* Hondros, 100 S. C. 242, 84 S. E. 781.

(715) § 3. Public Sports Prohibited on the Lord's Day.—No public sports or pastimes, as bear-baiting, bull-baiting, football playing, horse-racing, interludes or common plays, or other games, exercises, sports or pastimes, such as hunting, shooting, chasing game, or fishing, shall be used on the Lord's Day by any person or persons whatsoever; and every person or persons offending in any of the premises shall, upon conviction, be deemed guilty of a misdemeanor, and be subject to a fine not to exceed fifty dollars, or imprisonment not to exceed thirty days.

Crim. Code, '12, § 700; Crim. Code, '02, § 502; G. S. 1633; R. S. 387; 1896, XXII, 221.

(716) § 4. Certain Labor on Sunday Prohibited.—In addition to the penalties prescribed against tradesmen, artificers, workmen and laborers who shall do or exercise any worldly labor, business or work of their ordinary calling upon the Lord's Day (commonly called the Sabbath) or Sunday, or any part thereof, any corporation, company, firm or person who shall order, require or direct any work to be done in any machine shop or shops on Sunday, except in cases of emergency, shall, upon conviction, be deemed guilty of a misdemeanor, nd shall be fined in a sum not less than one hundred dollars and not more than five hundred dollars for each offense.

Crim. Code, '12, § 701; Crim. Code, '02, § 503; 1899, XXIII, 100.

(717) § 5. Penalty for Offenses Against This Chapter.—For the better execution of all and every the foregoing provisions, every Magistrate within his county shall have power and authority to summon before him any person or persons whatsoever who shall offend in any of the particulars before mentioned, and upon his own view, or confession of the party, or proof of any one or more witnesses, upon oath, the said Magistrate shall give a warrant, under his seal, to seize the said goods cried, showed forth, or put on sale as aforesaid, and to sell same; and as to the other penalties and forfeitures, to impose the fine and penalty for the same, and to levy the said forfeitures and penalties by way of distress and sale of the goods of every such offender, returning the overplus, if any be, after charges, allowed for the distress and sale. All forfeitures and penalties recovered under this Chapter to be paid over to County Treasurer for the use of the county.

Crim. Code, '12, § 702; Crim. Code, '02, § 504; G. S. 1634; R. S. 388; 1712, II, 396.

(718) § 6. Disturbance of Religious Worship—Sale of Liquors—Profane Language.—Any person who shall wilfully and maliciously disturb or interrupt any meeting, society, assembly or congregation convened for the purpose of religious worship, or shall enter such meeting while in a state of intoxication, or shall use or sell spirituous liquors, or use blasphemous, profane or obscene language at or near the place of meeting, shall be deemed guilty of a misdemeanor, and shall, on conviction, be sentenced to pay a fine of not less than twenty or more than one hundred dollars, or be imprisoned for a term not exceeding one year or less than thirty days, or both or either, at the discretion of the Court.

Crim. Code, '12, § 703; Crim. Code, '02, § 505; G. S. 1635; R. S. 390; 1873, XV, 352; 1894, XXI, 824; 1897, XXII, 409

Graham *v.* Bell, 1 N. & McC. 278. Embraces disturbing religious assemblage of Jews, even by one of the members of their Church. State *v.* Carvallo, MS. Dec. 1819.

A camp meeting of a denomination of Christians is such religious meeting; and one who sells liquor at or near them is subject to the punishment prescribed herein. State *v.* Hall, 2 Bail. 151.

A riot forty feet from Church. State *v.* Jones, 77 S. C. 385, 53 S. E. 8.

Disturbance need not occur while congregation is actually engaged in worship. State *v.* Matheny, ... S. C. ....., 101 S. E. 661.

(719) § 7. Penalty for Certain Misdemeanors.—Any person, upon conviction of any one of the following named misdemeanors, shall be subject and liable for each offense to a fine not to exceed one hundred dollars or to imprisonment for a term not exceeding thirty days, to wit: Carrying concealed about the person any deadly weapon, such as are enumerated

in Section (151); disturbing a religious meeting in any way, or otherwise violating the provision of Section (718), when no weapons were actually used and no wounds inflicted; all riots, routs or affrays where no weapons were actually used and no wounds inflicted; malicious mischief and malicious trespass as contemplated in Sectons (73) and (74), when the damage to such property does not exceed twenty dollars; disposing of property under lien, or obtaining property under false pretense, when the value of such property so disposed of, stolen or obtained, respectively, does not exceed twenty dollars.

Crim. Code, '12, § 23; Crim. Code, '02, § 15; R. S. 14; 1892, XXI, 93; 1893, XXI, 411; 1894, XXI, 824.

CHAPTER XVII.

Gambling.

(720) § 1. Penalty for Playing at Certain Games and Betting. —If any person or persons shall play, at any tavern, inn, store for the retailing of spirituous liquors, or in any house used as a place of gaming, or in any barn, kitchen, stable or other outhouse, or in any street, highway, open wood, race field or open place, at any game or games, with cards or dice, or at any gaming table, commonly called A, B, C, or E, O, or any gaming table known or distinguished by any other letters, or by any figures or roley-poley table, or at *rouge et noir*, or at any faro bank, or at any other table or bank of the same, or the like kind, under any denomination whatsoever (except the game of billiards, bowls, backgammon, chess, draughts, or whist, when there is no betting on the said game of billiards, bowls, backgammon, chess, draughts or whist), or shall bet on the sides of hands of such as do game, upon being convicted thereof, before any Magistrate, shall be imprisoned for a period of not over thirty days, or shall suffer a fine of not over one hundred dollars; and every person so keeping such tavern, inn, retail store, public place or house used as a place for gaming, or such other house, shall, upon being convicted thereof, upon indictment, be imprisoned for a period not exceeding twelve months, and forfeit a sum not exceeding two thousand dollars, for each and every offense.

Crim. Code, '12, § 704; Crim. Code, '02, § 506; G. S. 1715; R. S. 391; 1802, V, 432; 1816, VI, 27; 1909, XXVI, 66.

Game called "Thimble" or "Thimble and Balls" within Statute, 1816. State *v.* Red, 7 Rich. 8.
A distillery is such an outhouse. State *v.* Faulkner, 2 McC. 428.
Gambling in dwelling. State *v.* Brice, 2 Brev. 66. Betting on dice. State v. Robinson, 40 S. C. 553, 18 S. E. 891.
Betting on horse-racing is embraced in such games. Atcheson *v.* Gee, 4 McC. 211.
Doubtful whether this in confined to gambling in a public place. Greenville *v.* Kemmis, 58 S. C. 431, 36 S. E. 727. This Statute making gambling an offense against the State does not prevent a municipality from making further regulations against it. *Ib.*
INDICTMENT—
Bad, which charges gaming and keeping public place and house used as a place for gaming. State *v.* Howe, 1 Rich. 260.
Erasure in. State *v.* Yoe, 80 S. C. 382 61 S. E. 880.
EVIDENCE—
What should at that time be proved to subject party to pecuniary penalty under Statute. State *v.* Dent, 1 Rich. 469; State *v.* Waters, 1 Strob. 59.
Witness unable to testify otherwise to the facts may testify to them as he sees them made in an affidavit by him at the time of the gaming. State *v.* Rawls, 2 N. & McC. 331.
Must conform to the allegation. State *v.* Rushing, 2 N. & McC. 560.
Not necessary to negative games allowed. State *v.* Yoe, 76 S. C. 46, 56 S. E. 542.
Keeping a gaming house. State *v.* Lane, 82 S. C. 144, 63 S. E. 613.

(721) § 2. Penalty for Keeping, Etc., Gaming Tables, Etc.—Any person or persons who shall set up, keep, or use any gaming table, commonly called A, B, or C, E, O, or any gaming table known or distinguished by any other letters, or by any figures, or roley-poley table, or table to play at *rouge* and *noir,* or any faro bank, or any other gaming table or bank of the like kind, or of any other kind, for the purpose of gaming (except the games of billiards, bowls, chess, draughts, and backgammon), upon being convicted thereof, upon indictment, shall forfeit a sum exceeding five hundred dollars, and not less than two hundred dollars.

Crim. Code, '12, § 705; Crim. Code, '02, § 507; G. S. 1716; R. S. 392; 1816, VI, 27.

This is not confined to acts done in a public place. Greenville *v.* Kemmis, 58 S. C. 431, 36 S. E. 727.

An indictment which in one count charges the offense of gaming under the preceding Section and for the offense stated in this Section, is bad; they are two separate and distinct offenses. State *v.* Howe, 1 Rich. 260.

(722) § 3. Penalty for Betting on Elections.—Any person who shall make any bet or wager of money, or wager of any other thing of value, or shall have any share or part in any bet or wager of money, or wager of any other thing of value, upon any election in this State, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding five hundred dollars and be imprisoned not exceeding one month.

Crim. Code, '12, § 706; Crim. Code, '02, § 508; G. S. 1717; R. S. 393; 1850, XII, 72; 1909, XXVI, 67.

(723) § 4. Wagers to Be Forfeited.—All and every sum or sums of money staked, betted, or pending on the event of any such game or games, as aforesaid, are hereby declared to be forfeited.

Crim. Code, '12, § 707; Crim. Code, '02, § 509; G. S. 1718; R. S. 394; 1816, VI, 28; 1909, XXVI, 67.

(724) § 5. Gamblers to Give Security for Good Behavior, or Be Committed.—It shall and may be lawful for any two or more Magistrates in any county or city whatsoever, to cause to come or to be brought before them every person within their respective limits, whom they shall have just cause to suspect to have no visible estate, profession, or calling to maintain themselves by, but do, for the most part, support themselves by gaming; and if such person or persons shall not make it appear to such Magistrate that the principal part of his or their expenses is not maintained by gaming, then such Magistrates shall require of him or them sufficient securities for his or their good behavior for the space of twelve months, and, in default of his or their finding such securities, shall commit him or them to the common jail, there to remain until he or they shall find such securities, as aforesaid.

Crim. Code, '12, § 709; Crim. Code, '02, § 511; G. S. 1720; R. S. 396; 9 Ann., c. 14; 1712, II, 567.

(725) § 6. A Wager of Five Dollars to Forfeit Recognizance.—If such person or persons so finding securities as aforesaid, shall, during the time for which he or they shall be so bound to good behavior, at any one time or sitting, play or bet for any sum or sums of money, or other thing, exceeding in the whole the sum or value of five dollars, such playing shall

be deemed and taken to be a breach of his or their behavior, and a forfeiture of the recognizance given for the same.

Crim. Code, '12, § 710; Crim. Code, '02, § 512; G. S. 1726; R. S. 397; 1712, II, 567.

(726) § 7. Imprisonment—Proviso.—Upon conviction of every person under the provisions of any of the foregoing Sections of this Chapter, the Court before whom such conviction shall take place is hereby required to commit such offender to the common jail of the county where such conviction shall happen, for a period not exceeding the time for which said offender has been sentenced, unless such offender shall sooner pay the fine or fines herein imposed, together with the cost of prosecution: *Provided, however,* That all persons who might be subject or liable to the fines and penalties imposed herein, either for gaming at or keeping a gaming table or tables, shall, upon being permitted by the Circuit Solicitor to become evidence in behalf of the State, be freed and exonerated from the same.

Crim. Code, '12, § 711; 1909, XXVI, 67.

(727) § 8. Criminal to Challenge or Fight on Account of Wagers.—In case any person or persons whatsoever shall assault and beat, or shall challenge or provoke to fight, any other person or persons whatsoever upon account of any money won by gaming, playing or betting at any of the games aforesaid, such person or persons assaulting and beating, or challenging or provoking to fight, such other person or persons upon the account aforesaid shall, being thereof convicted, upon an indictment or information, to be exhibited against him or them for that purpose, suffer imprisonment in the common jail of the county where such conviction shall be had, for the term of two years.

Crim. Code, '12, § 712; Crim. Code, '02, § 514; G. S. 1729; R. S. 390; 9 Ann., c. 14; II, 567, § 8.

(728) § 9. Swindling.—Whoever shall inveigle or entice, by any arts or devices, any person to play at cards, dice, or any other game, or bear a share or part in the stakes, wagers, or adventures, or bet on the sides or hands of such as do or shall play as aforesaid, or shall sell, barter, or expose to sale any kind of property which has been before sold, bartered, or exchanged by the person so selling, bartering, or exchanging, or by any one for the benefit or advantage of the person so selling, bartering, or exchanging, in any house or other place within this State, or shall be a party thereto, or shall overreach, cheat, or defraud by any other cunning, swindling arts and devices, so that the ignorant and unwary, who are deluded thereby, lose their money or other property, every such person exercising such infamous practices shall, on conviction thereof in any Court of competent jurisdiction, be deemed guilty of a misdemeanor, and shall be fined at the discretion of the Court, and, besides, shall refund to the party aggrieved double the sum he was so defrauded of; and if the same be not immediately paid, with costs, every such person shall be committed to the common jail or house of correction, if there be any, of the county where such person shall be convicted, there to continue for any time not exceeding six months, unless such fine, with costs, be sooner paid and discharged.

Crim. Code, '12, § 713; Crim. Code, '02, § 515; G. S. 2508; R. S. 400; 1791, V, 177.

State *v.* Wilson, 2 M. Con. Rep. 135.
Selling a blind horse as a sound horse is not indictable under this Section. State *v.* DeLyon, 1 Bay 353.
Nor is selling a promissory note, knowing it to have been paid, but representing it was still due. State *v.* Middleton, Dud. 283.
Obtaining property from ignorant person under threat of prosecution. State v. Vaughan, 1 Bay 283. By using paper as bank bill. State *v.* Grooms, 5 Strob. 158.

(729) § 10. Fine for Keeping Gaming Tables Open on the Sabbath.—Whoever shall keep, or suffer to be kept any gaming table, or permit any game or games to be played in his, her, or their house, on the Sabbath day, such person or persons, on conviction thereof before any Court having jurisdiction, shall be fined in the sum of fifty dollars, to be sued for on behalf of, and to be recovered for, the use of the State.

Crim. Code, '12, § 714; Crim. Code, '02, § 516; G. S. 2592; R. S. 402; 1790, V, 350.

(730) § 11. Betting, Pool-selling, Book-making, Etc., Prohibited—Penalty—Nuisance.—Any person within this State, who engages in betting at any race track, pool-selling, or book-making, with or without writing, at any time or place; or any person who keeps or occupies any room, shed, tenement, booth, or building, float or vessel, or any part thereof, or who occupies any place or stand of any kind, upon any public or private grounds, within this State, with books, papers, apparatus, or paraphernalia, for the purpose of recording or registering bets or wagers, or of selling pools, and any person who records or registers bets or wagers, or sells pools or makes books, with or without writing upon the result of any trial or contest of skill, speed or power of endurance, of man or beast; or upon the result of any political nomination, appointment of election; or upon the result of any lot, chance, casualty, unknown or contingent event whatsoever; or any person who receives, registers, records or forwards, or purports or pretends to receive, register, record or forward, in any manner whatsoever, any money, thing or consideration of value, bet or wagered, or offered for the purpose of being bet or wagered, by or for any other person, or sells pools, upon any such result; or any person who, being the owner, lessee or occupant of any room, shed, tenement, tent, booth, or building, float or vessel, or part thereof, or of any grounds within this State, knowingly permits same to be used or occupied for any of these purposes, or therein keeps, exhibits or employs any device or apparatus for the purpose of recording or registering such bets or wagers, or the selling of such pools, or becomes the custodian or depository for gain, hire or reward, of any money, property or thing of value, staked, wagered or pledged, or to be wagered or pledged upon any such result; or any person who aids, assists or abets in any manner in any of the said acts, which are hereby forbidden, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one thousand ($1,000) dollars, or imprisonment not exceeding six (6) months, or both fine and imprisonment, in the discretion of the Court.

2. The violation of any of the provisions of the foregoing subsection shall be deemed a common nuisance: *Provided,* That wherever the offense is specified in Section (720), the punishment there provided shall be imposed, it being the intention to leave the jurisdiction of such gambling

as is there specifically prohibited in the Courts now having jurisdiction of the same.

1912, XXVII, 713.

(731) § 12. Punch Boards for Gaming, Unlawful.—It shall be unlawful for any person, firm or corporation to use or offer for use any punch boards or other kinds of boards with numbers concealed thereon for the purpose of gaming or chance in this State.

2. PENALTY.—Any person, firm or corporation violating this Section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $10.00 nor more than $25.00, or imprisoned not less than five days nor more than thirty days, or both, at the discretion of the Court: *Provided*, That for the second or third offense hereunder, the fine shall be not less than $25.00 nor more than $100.00, or imprisonment on the public works of the county for a period not exceeding three months.

1918, XXX, 728.

CHAPTER XVIII.

Protection of Game Birds, Animals and Fish, and Regulation of Hunting.

(732) § 1. Wild Birds, Game and Fish the Property of the State.—All wild birds, wild game and fish (except fish in strictly ponds and lakes entirely segregated from other waters) shall be, and are here declared to be the property of the State.

1919, XXXI, 269.

(733) § 2. Classification of Birds, Animals and Fish—Open and Closed Seasons—Fishing Regulations.—For the purpose of this Act the following classifications shall be recognized:

(a) *Domestic Game Birds.*—Blackbirds, pheasants, doves, partridge (quail), and wild turkeys. (b) *Destructive Birds.*—Eagles, buzzards, crows, Cooper's hawk, duck hawk, English sparrows, great horned owl, jaybirds, loggerheads, and sharp-skinned hawk. (c) *Game Animals.*—Bear, deer, fox, mink, muskrats, opossums, otter, rabbits, raccoons, skunk and squirrels. (d) *Game Fish.*—Jackfish or pickerel, pike, black bass or pond trout, striped bass or rockfish, warmouth, red-belly bream, copperface or ball-faced bream, yellow-belly perch, sun perch, redfin trout, flyer, crappie, rock bass, goggle eye, and white perch. (e) The open season for quail or partridges shall be from Thanksgiving Day to March 1st, inclusive, of each hunting season, and the bag limit shall be fifteen per day to the hunter, and trapping or snaring of quail is absolutely prohibited, except as provided for scientific or propagating purposes. The open season for wild turkeys shall be from Thanksgiving Day to March 1st, inclusive, of each hunting season, with a bag limit of two per day and a total of twenty per season, but no wild turkey must at any time be shot from any natural or artificial blind or hiding place when lured by bait. The provision against snaring quail or partridges shall apply to wild turkeys. The open

season for domestic doves and marsh hens shall be from August 15th to March 1st of each year. The open season for blackbirds shall be from October 1st to March 31st, inclusive, of each season. There shall be a closed season for pheasants for five years after the passage of this Act. (f) *Destructive Animals.*—Foxes and wild cats may be killed by owners and officers of the law upon their holdings and without license at any time. (g). All domestic birds not named above are nongame birds, and shall not be destroyed in any way at any time. (h) The closed season for hunting squirrels, raccoons, rabbits and opossum in this State shall be from March 1 to September 1 of each year: *Provided,* Raccoons and squirrels may be killed by owners of crops from July 15th, if such animals are destroying said crops. The open season for hunting other game animals shall be from October 1st to March 15th of each year, except that deer may be hunted from September 1st to January 1st only. The bag limit for squirrels shall be fifteen (15) per day: *Provided,* That the open season for hunting foxes shall be from September 1st to February 15th of each year. (i) The catching of game fish shall be with hook and line only in all clear water streams and waters of the State. (j) Gill nets (not to extend more than half way across a stream, lake or pond) traps, seines, trotlines or other device which does not block the passage of fish in streams may be used in the muddy streams of the State: *Provided,* They be not used within one hundred (100) yeards of the mouth of clear water streams emptying into same: *Provided, further,* That a seine or net may be used in fishing between the first day of September and the first day of May. No traps, nets or other devices shall be used at the mouths or inside of any rice field ditches. (k) The tickling, pegging or catching of game fish by any means, except rod and line, or hand line, or single set line, outside of beds, is strictly forbidden.

1919, XXXI, 269; 1920, XXXI, 732; 1921, XXXII, 224, 233.

(734) § 3. Violation of Provisions a Misdemeanor—Penalty.—Any violation of the provisions of Section (733) shall be a misdemeanor, and, upon conviction thereof, the offender shall suffer penalty of fine of not less than ten ($10.00) dollars nor more than one hundred ($100) dollars, or imprisonment of not less than ten nor more than thirty days.

1919, XXXI, 269; 1920, XXXI, 732.

(735) § 4. Poisoning, Polluting, Etc., Streams Unlawful—Penalty.—It is unlawful to poison the streams or waters of the State in any manner whatsoever for the purpose of taking fish. The muddying of streams or ponds or the introduction of any substance which results in making the fish sick, so that they may be caught, is hereby declared to be poisoning in the sense of this Section. No sawdust or acid or other injurious substance shall be discharged into any of the streams of the State where fish breed or abound. It shall be unlawful to throw, place or put any dynamite or any other explosive in any lake, stream or water in the State for the purpose of taking fish. For the violation of this Section the person or persons so violating shall be fined five hundred ($500.00) dollars or imprisonment not exceeding one year.

1919, XXXI, 269.

(736) § 5. Shipment of Game.—It shall be unlawful for any transportation company to receive for shipment any of the game birds or animals of the State, except in season, and unless the package containing them shall be so labeled as to show the consignor or consignee, and the number and kind of birds and animals.

1919, XXXI, 269.

(737) § 6. Night Hunting Regulated—Penalty for Deer Hunting With Lights.—There shall be no night hunting in this State except for raccoons and opossums and foxes, and the penalty for hunting deer with torches or artificial lights of any kind shall be not more than thirty days or a fine of not less than fifty and not more than one hundred dollars.

1919, XXXI, 269; 1920, XXXI, 732.

(738) § 7. Penalty for Violation of Game or Fish Laws, When Not Otherwise Specified.—When not otherwise specified, the penalty for violation of any part of the game, bird or fish laws of this State shall be a misdemeanor, and, upon conviction thereof, the offender shall suffer penalty of fine of not less than ten dollars or more than twenty-five dollars, or imprisonment of not less than ten or more than thirty days.

1919, XXXI, 269.

(739) § 8. Peace Officers to Assist in Enforcement.—It shall be the positive duty of all Sheriffs, Deputy Sheriffs, Constables, Rural Policemen and special officers to actively cooperate with the Game Department and Game Wardens in the enforcement of the game and fish laws of the State.

1919, XXXI, 269.

(740) § 9. Destruction of Birds' Nests Punishable.—The destruction of birds' nests shall be punishable in the same way as the destruction of the birds.

1919, XXXI, 269.

(741) § 10. Hunter's License Required. It shall be unlawful for anyone to hunt within this State without first procuring a license to do so from the Deputy Game Warden in the county in which he may propose to hunt or an adjoining county of this State. A resident of any county shall pay for a county license a license fee of one and 10/100 ($1.10) dollars. A nonresident shall pay a license fee to hunt in any county of three and 10/100 ($3.10) dollars, except landowners and members of their families hunting or fishing on their own lands, or in waters on their lands leased by him. Every nonresident of the State shall pay a hunter's license fee of fifteen and 25/100 ($15.25) dollars during any one season: *Provided,* Any employee residing in this State may fish or hunt on the lands of his employer, owning or leasing the land, by the written permission of the person so owning or leasing, or his superintendent, with the same privilege as said owner or person leasing may enjoy: *Provided,* That all sums of money collected from the sale of said licenses shall be transmitted to the State Treasurer and placed to the credit of the Game Protection Fund, and the Chief Game Warden, at the end of each year, shall return to each respective county for school purposes nine-twentieths of such licenses as

were collected therein: *Provided, further,* That the provisions of this Section shall not prevent residents of the State from hunting without license on their own lands in any county of the State.

1919, XXXI, 269; 1920, XXXI, 1117.

(742) § 11. Nonresident Fishing License.—All nonresidents of this State, before fishing for game or other fish in any manner in the inland streams or waters of this State, shall first procure a nonresident fishing license, the fee for which shall be three and 25-100 ($3.25) dollars.

1919, XXXI, 269.

(743) § 12. Residents May Hunt on Their Own Lands Without License.—Provided, That the provisions of this Chapter shall not prevent residents of the State from hunting without license on their own lands in any county of the State.

1919, XXXI, 269.

(744) § 13. Violation of Federal Bird Regulations Unlawful—Penalty.—The Federal Migratory Bird Treaty Regulations, being the supreme law of the land under Article VI of the Constitution of the United States, are hereby declared to be the law of this State, and the penalty for their violation shall be punishment of not less than $10.00 nor more than $25.00 fine, or thirty days imprisonment.

1919, XXXI, 269.

(745) § 14. Killing of Foxes Unlawful, Except as Herein Provided —Open Season for Hunting With Dogs—Killing of Fox Doing Damage Lawful.—It shall be unlawful to hunt, shoot, trap or kill any fox in this State, or to dig out of the ground or to push or drag out of a tree or log any fox or foxes in said State, except as hereinafter provided: *Provided,* That fox or foxes may be hunted or run with dogs in this State from September 1st until the 15th day of February of each year: *And provided, further,* That any person may shoot or kill any fox or foxes while in an act of doing any damages upon his property. Any person or persons violating the provisions of this Section shall be punished by a fine of not more than twenty-five dollars or by imprisonment for not more than thirty days.

1920, XXXI, 1049.

(746) § 15. Game to Be Confiscated.—Any bird or animal caught or killed in violation of this Chapter shall be confiscated and sold to the highest bidder, and the proceeds of such sale shall be transmitted to the State Treasurer to the credit of the Game Protection Fund.

Crim. Code, '12, § 718; 1910, XXVI, 572.

(747) § 16. Unlawful to Sell Certain Birds.—It shall be unlawful to buy or sell, expose for sale, or to have in possession for sale or barter, any willet or dove.

Crim. Code, '12, § 719; 1910, XXVI, 572.

(748) § 17. Unlawful to Keep Game in Cold Storage.—It shall be unlawful to keep any of the birds or animals forbidden to be sold by the

terms of this Chapter, in cold storage or refrigerating plants, except in a private dwelling. Any person violating this Section shall be fined not less than fifty dollars nor more than one hundred dollars, or imprisoned one day for each dollar fined or unpaid, either or both, at the discretion of the Court trying the case, except wild duck, rail and rice birds, or other birds that it is lawful to sell.

Crim. Code, '12, § 720; 1910, XXVI, 572.

(749) § 18. Penalty.—Any person or persons violating Section (747) shall be fined, upon conviction, ten dollars for each bird or animal sold or offered for sale, or be imprisoned one day for each dollar fined and unpaid, not to exceed a fine of one hundred dollars or thirty days imprisonment.

Crim. Code, '12, § 722; 1910, XXVI, 572; 1919, XXXI, 269.

(750) § 19. Unlawful to Buy or Sell Deer.—It shall be unlawful to buy or sell, offer for sale or barter, or to have in possession for sale, any deer or part thereof; and for violation of this Section, upon conviction of the party or parties, shall be fined not less than twenty-five dollars for any deer or part thereof.

Crim. Code, '12, § 723; 1910, XXVI, 572.

(751) § 20. Unlawful to Keep in Cold Storage Partridge, Wild Turkey or Woodcock.—It shall be unlawful to keep in cold storage or a refrigerating plant any partridge or wild turkey or woodcock; and any person violating this Section shall be fined twenty-five dollars for each day said birds remain in cold storage, or imprisoned one day for each dollar fined and unpaid except in private residences.

Crim. Code, '12, § 725; 1910, XXVI, 572.

(752) § 21. Unlawful to Buy or Sell Certain Game.—It shall be unlawful for any person to buy or barter for sale any partridge, wild turkey or woodcock within this State; and any person or persons violating this Section shall be fined ten dollars for each partridge, wild turkey or woodcock so bought, or imprisoned one day for each dollar fined and unpaid.

Crim. Code, '12, § 726; 1910, XXVI, 572.

(753) § 22. Disposition of Fines and Forfeitures.—It is hereby provided that all fines or forfeitures obtained for violation of this Chapter, except as otherwise provided herein, shall be paid to the State Treasurer, to the credit of the Game Protection Fund, and that same shall be disbursed by the State Treasurer on the order of the Chief Game Warden of South Carolina.

Crim. Code, '12, § 727; 1910, XXVI, 572.

(754) § 23. Persons Having in Their Possession Venison or Fresh Deer Skins Liable.—Any person in whose possession recently killed venison, or fresh deer skins, shall be found between the dates above mentioned, shall be liable to the same penalty as those violating Section (745).

Crim. Code, '12, § 729; Crim. Code, '02, § 541; G. S. 1688; R. S. 421.

(755) § 24. Shipment of Game Within the State.—1. It shall be lawful for a person to ship during any one week not over the bag limit for two days as now provided by law of any domestic game, birds or animals to any private address in this State when he shall have conformed to the rules and regulations prescribed by the Chief Game Warden under Subsection 2 hereof.

2. Regulations—Label.—Any person so desiring to ship game, birds or animals as above described during the open season for such game, birds or animals or within five days after the closing of the same, shall make application to the Chief Game Warden or his deputy, and upon such application the Chief Game Warden or his deputy, if it shall appear to him that such shipment is for private and personal use and not for the sale of said game, birds or animals, shall issue to the applicant a tag or label for use in shipping such game, birds or animals; said label to be of such design and in such form as the Chief Game Warden shall prescribe.

1920, XXXI, 757.

(756) § 25. Persons Not Allowed to Hunt, Etc., on Lands of Others.—If any person, at any time whatsoever, shall hunt or range on any lands, or shall enter thereon for the purpose of hunting, fishing or trapping, without the consent of the owner or manager thereof, every such person so offending shall forfeit and pay a fine of not more than twenty dollars, or be imprisoned at hard labor not more than thirty days for each and every such offense.

Crim. Code, '12, § 730; Crim. Code, '02, § 542; G. S. 1689; R. S. 422; 1769, IV, 310; 1905, XXIV, 906.

(757) § 26. Nongame Birds Not to Be Caught or Killed.—No person within the State shall kill, catch or have in his or their possession, living or dead, any resident or migratory wild bird other than a game bird or buzzard, or purchase, offer or expose for sale, any such wild nongame bird, after it has been killed or caught, except as permitted by Sections (758), (759), (760).

Plumage, Skin or Body of Birds Not to Be Sold.—No part of the plumage, skin or body of any bird protected by this Section shall be sold or had in possession for sale, and this irrespective of whether said bird was captured or killed within or without the State.

No Eggs or Nests to Be Destroyed.—No person within the State shall take or destroy, or attempt to take or destroy, the nest or the eggs of any wild bird, or have such nest or eggs in his or their possession, except as permitted in this Section.

Wild Game Not to Be Transported.—It shall be unlawful for any person or persons, or any corporation acting as a common carrier, its officers, agents or servants, to ship, carry, take or transport, either within or beyond the confines of the State, any resident or migratory wild nongame bird, except as permitted by Section (759).

Crim. Code, '12, § 734; 1905, XXIV, 950; 1918, XXX, 794.

(758) § 27. **Certificate to Take Birds.**—Section (757) shall not apply to any person holding a certificate giving the right to take birds, their nest or eggs, for strictly scientific purposes, as provided for in Section (759), nor shall anything contained in Section (757) prevent any householder from keeping any resident or migratory birds, whether game or nongame, in aviaries or cages as pets or for experimental and breeding purposes, and from trapping or catching them for such purposes: *Provided,* That no one shall trap or catch the same save on his own lands: *And provided, further,* That the same are not kept for barter, sale or exchange, and shall not be shipped or transported beyond the confines of this State.

Crim. Code, '12, § 735; 1905, XXIV, 950.

(759) § 28. **Issue of Certificates.**—Certificates may be granted by the Chief Game Warden to any properly accredited person of the age of fifteen years or upwards, permitting the holder thereof to collect birds, their nests or eggs, for strictly scientific purposes only. In order to obtain such certificate the applicant for the same must present to the Chief Game Warden written testimonials from two well known ornithologists, certifying to the good character and fitness of said applicant to be entrusted with such privilege, and must pay to said office one dollar to defray the necessary expenses attending the granting of such certificate. On proof that the holder of such certificate has captured or killed any bird, or taken the nests or eggs of any bird for other than scientific purposes, the certificate shall become void, and he shall be liable to a fine of not more than one hundred dollars or imprisonment not exceeding thirty days.

Crim. Code, '12, § 736; 1905, XXIV, 950; 1920, XXXI, 783.

(760) § 29. **When Certificates Expire.**—The certificates authorized by Section (759) shall expire on the 31st day of December of the year issued, and shall not be transferable.

Crim. Code, '12, § 737; 1905, XXIV, 950.

(761) § 30. **Violation of Section (757) Misdemeanor.**—Any person violating any of the provisions of Section (757) shall be guilty of a misdemeanor, and shall be liable to a fine of not less than one dollar nor more than five dollars for each bird, living or dead, or part of a bird, or nest, or set of eggs, or part thereof, killed or captured or possessed, in violation of said Section, or be imprisoned in the county jail for not more than thirty days.

Crim. Code, '12, § 739; 1905, XXIV, 950.

(762) § 31. **Regulations in Regard to Transportation of Game Birds or Animals.**—No person or corporation shall knowingly receive for transportation, or shall transport or cause to be transported, or have in his or her posession with the intent to transport, or to secure the transportation of beyond the limits of this State, any of the partridges, grouse, wild turkeys, snipe, woodcock, or other game birds or game animals which have been killed or captured in this State, and each bird or game animal so killed or taken or had in possession, received for transportation or transported, contrary to the provisions of this Chapter, shall constitute a sep-

arate offense. The reception by any person or corporation within this State of any such birds or game for shipment to a point beyond the limits of this State shall be *prima facie* evidence that said birds or game were killed within the State for the purpose of conveying same beyond its limits; but the provisions of this Section shall not apply to common carriers into whose possession birds or game shall come in the regular course of their business for transportation while they are in transit through the State from any place without the State: *And provided, further,* That nothing herein shall prohibit persons from having in their possession for the purpose of domestication and propagation any of the birds and animals referred to in this Chapter.

Crim. Code, '12, § 741; 1907, XXVI, 660.

(763) § 32. Number of Game Birds Nonresident May Carry From State.—Any person holding a hunter's license to hunt in South Carolina shall be permitted to take in his hand openly from the State fifty partridges, or twelve ruffled grouse, or four wild turkeys, or fifty beach birds, or fifty wild ducks and geese, or two deer in a season.

Crim. Code, '12, § 746; 1907, XXV, 659.

(764) § 33. Chief Game Warden.—(1) The execution of the bird, game and nonmigratory fish laws of South Carolina shall be by and under the direction of a Commissioner, to be known as the Chief Game Warden. Said Chief Game Warden to be elected by the General Assembly of this State and then be commissioned by the Governor, and shall, before assuming the duties of his office, subscribe to the oath required of public officers, and shall furnish bond in the sum of two thousand dollars, to be approved by the Governor and filed in the office of the Secretary of State. (2) The Chief Game Warden shall have charge of the warden force and exercise supervision over the enforcement of the laws. He shall be empowered to make contracts with wardens: *Provided,* That no warden shall be paid in excess of twelve hundred dollars per annum, nor be allowed more than six hundred dollars for traveling expenses. And he shall have the power to dismiss the wardens at his discretion. (3) The State Treasurer shall pay out money from the Game Warden fund on the order of the State Fish and Game Commissioner, and the said Chief Game Warden shall make an annual report to the Treasurer, covering all moneys expended. He shall at the same time make report to the Governor and the General Assembly of the State, covering all matters relating to his department for each year he is in office. (4) The Chief Game Warden shall receive the salary of $2,500.00 per year, with an allowance for traveling expenses of $1,000.00. There shall be no other charge on the State Treasury for any amount whatsoever not credited to the Game Protection Fund. His term of office shall be four years. He shall be subject to removal by the Governor as provided in Section (765).

Crim. Code, '12, § 747; 1910, XXVI, 575; 1919, XXXI, 101; 1920, XXXI, 809.

Appointment of Chief Game Warden under former law. Gibbes *v.* Richardson, 107 S. C. 191, 92 S. E. 333.

(765) § 34. Appointment of Game Wardens.—The Governor of the State shall appoint, upon the recommendation of the Legislative Delegation

of the several counties, from time to time, bird, nonmigratory fish and game wardens, whose term of office, unless otherwise provided for, shall be during good behavior or until their successors are appointed. The Governor shall issue a commission to each person appointed as a warden, and shall transmit such commission to the office of the Clerk of Court for the county in which the prospective Treasurer, or bird, nonmigratory fish and game warden is a resident. No tax or fee shall be charged or collected for said commission. Any of the said wardens or Chief Game Warden may be removed by the Governor upon proof satisfactory to him that they are not fit persons for said positions. The compensation of said wardens shall be fixed and paid by the Chief Game Warden from and out of the Game Protection Fund, as provided by law.

Crim. Code, '12, § 748; 1907, XXV, 662; 1920, XXXI, 809.

(766) § 35. **Game Wardens May Examine Cars, Etc., for Game.**—A duly commissioned bird and game warden is authorized, upon making an affidavit before a Magistrate or in any Court of the State, that there exists reasonable grounds to believe that birds or game are in possession of a common carrier in violation of the law, is authorized to procure a search warrant and to open and enter and examine all cars, warehouses and receptacles of common carriers in the State, where they have reason to believe any game, taken or held in violation of this Section, is to be found and seize the same. It shall be the duty of said bird and game wardens to prosecute all persons or corporations having in their possession any birds, nonmigratory fish, or game, contrary to the bird, fish, and game laws of this State. It shall be their duty to see that the bird, nonmigratory fish, and game laws are enforced, and to obtain information as to all violation of the said bird, nonmigratory fish, and game laws. All moneys obtained from fines or forfeitures, except as otherwise directed in this Chapter, shall be deposited with the State Treasurer to the credit of the "Game Protection Fund."

Crim. Code, '12, § 749; 1907, XXV, 662.

(767) § 36. **Game or Fish Unlawfully Taken to Be Sold.**—Any bird, nonmigratory fish, or animal caught, taken or killed, shipped, or received for shipment, had in the possession or under control by any person or corporation contrary to the provisions of law, which may come into the possession of the bird and game wardens, shall be sold at auction within the State, and the bird or game warden disposing of the same shall issue a certificate to the purchaser, certifying that the said birds, non-migratory fish, or animals, were legally obtained and possessed, and anyone so acquiring said birds, nonmigratory fish, or animals, within this State, can have the right to use them as if same had been sold, killed or possessed in accordance with the laws of this State. The money received from the sale of such confiscated birds, nonmigratory fish or game shall be forwarded by the game warden to the Treasurer of the State and be placed to the account of the "Game Protection Fund."

Crim. Code, '12, § 750; 1907, XXV, 662.

(768) § 37. Oath and Bond of Game Wardens.—Every Warden appointed shall, before entering upon the duties of his office, take and subscribe before the Clerk of Court of the county of which he is a resident, or before any Notary Public, an oath to perform the duties of said office, and shall execute a bond in the sum of one hundred dollars for the faithful discharge of his duties, and the said bond and oath shall be recorded by the Clerk in his office, and the warden so qualified shall possess and exercise all the powers and authorities held and exercised by the Constable at common law and under the Statutes of this State. The Clerk shall not charge more than fifty cents for taking and recording said oath. The bird and game wardens, when acting in their official capacity, shall wear in plain view a metallic shield with the words "Bird and Game Warden" inscribed thereon.

Crim. Code, '12, § 751; 1908, XXV, 1156.

(769) § 38. Penalty Where Not Otherwise Provided.—All persons or corporations violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and, upon conviction, shall be punished in the discretion of the Court, except where punishment is otherwise provided.

Crim. Code, '12, § 752; 1907, XXV, 662.

(770) § 39. License to Enter Public Lands to Hunt Wild Duck.—1. Any citizen of this State may and shall be permitted to have access to the public lands, marshes and navigable streams and waters of this State and to pursue, kill or capture game of any kind whatsoever (at the times and in the manner permitted by law at the time), except wild duck, which, shall be permitted only upon the payment of the following amounts, to wit: For a license to take or shoot and ship wild duck, fifty dollars.

2. How Licenses to Kill Wild Ducks Issued.—The licenses shall be issued by the County Treasurer of each county in which it is sought to take or kill wild duck, upon the written application for such license for such county; and on the payment of the amounts hereinbefore set forth and the giving of a bond to the State in the sum of two hundred and fifty dollars, with security, to be approved as provided by law in the case of the bonds of County Officers, conditioned for the faithful performance by the applicant of the laws of the State with reference to the taking, capturing and killing of wild duck, and the payment of all fines imposed for any breach thereof, and for the punctual and faithful return and statement of all wild duck taken, captured or killed, in pursuance of the said license and the payment of all amounts due therefor.

3. Disposition of Proceeds.—The proceeds of all licenses and amounts paid as prescribed in this Section, as well as all fines imposed under this Section, shall go one-half to the State and one-half to the county in which the license is issued.

4. Penalty for Killing Wild Duck Without License.—Any person found pursuing, killing, capturing or taking wild duck on the public lands and marshes of this State, or in the public navigable streams or marshes thereof, without a license, as herein required shall, on conviction thereof, be punished by a fine of not exceeding two hundred dollars, or imprison-

ment for not exceeding sixty days, either or both in the discretion of the Court.

5. Time Licenses May Issue.—Licenses may be issued at any time during the year (but no wild duck may be killed or taken save in the season and manner prescribed by law), and all licenses shall expire on the 31st day of December in the year in which they are issued.

6. Licenses to Nonresidents to Kill Wild Duck.—The County Treasurer of each county is hereby authorized to issue license to any nonresident of the State upon payment of ten dollars, which license shall entitle the holder thereof to all the rights and privileges accorded herein to any citizen of the State, in relation to the pursuit, capture, hunting, shooting of wild duck: *Provided,* That said license shall not be construed to give the right to the holder thereof to sell the same within or without the State.

7. Violation of This Section as to Wild Duck by Nonresidents.—Any person not a citizen of this State, who does not hold a license as hereinbefore provided, who shall be found engaged in the pursuit, sale, killing or taking of any wild duck on the public lands and marshes, or on or in the public navigable streams or waters of this State, shall be guilty of a misdemeanor, and punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding sixty days, either or both, at the discretion of the Court, for a first conviction, and upon any second conviction, shall be punished by fine or imprisonment in the county jail or penitentiary, with or without hard labor, either or all, at the discretion of the Court.

Crim. Code, '12, § 753; 1905, XXV, 933.

(771) § 40. Game Fish Taken With Nets to Be Returned to the Water.—Should any game fish be taken by net or other appliance while fishing for other fish than game fish, they shall be immediately returned to the water from whence they came.

Crim. Code, '12, § 756; 1910, XXVI, 576.

(772) § 41. Killing of Doe Prohibited for Five Years.—For a period of five years it shall be unlawful for any person to kill any doe in this State. Violations of this Section shall subject the offender to fine of not more than one hundred ($100) dollars, or imprisonment of not more than thirty (30) days: *Provided,* The provisions of this Section shall not apply to Berkeley County.

1920, XXXI, 1348.

(773) § 42. Draining of Private Ponds to Take Fish Lawful—Open Season—Method of Taking Fish.—All persons owning any private pond shall be, and are hereby, permitted to draw off the waters of same for the purpose of catching the fish living therein: *Provided,* Such drawing. is done during the open season for catching game fish, as otherwise provided for: *And provided, further,* That the catching of fish under this Section shall be by hand or hand nets only.

2. How Often Pond May Be Drawn—Sale of Fish.—That no such pond shall be drawn oftener than once in every three years, and any fish caught at such time can be sold within the bounds of the State.

2-A. Private Pond Defined.—That the words "any private pond" shall mean all ponds located on small streams of water, regardless of their position on such streams, such streams of water not to be any river or navigable stream in this State.

1921, XXXII, 190.

CHAPTER XIX.

Protection of Nongame, Migratory and Shellfish, Etc.

(774) § 1. Unlawful to Poison Streams—Dynamite.—It shall be unlawful to poison the streams or waters of the State in any manner whatsoever for the purpose of taking fish. The muddying of streams or ponds or the introduction of any substance which results in making the fish sick, so that they may be caught, is hereby declared to be poisoning in the sense of this Section. It shall be unlawful to throw, place or put any dynamite or any explosive in any lake, stream or water in the State for the purpose of taking fish. For violation of this Section the person or persons so violating shall be fined five hundred ($500.00) dollars, or imprisoned one year.

Crim. Code, '12, § 757; 1910, XXVI, 576; 1911, XXVII, 125, 126, 128.

(775) § 2. Unlawful to Fish in Private Pond Without Permission.—It shall be unlawful to fish in any private pond or stream without the permission of the owner, or from the banks of a navigable stream without the permission of the owner of the land: *Provided,* That such permit must be in writing should the owner not be within one mile of the place where person or persons may be caught in the act of so fishing.

Crim. Code, '12, § 758; 1910, XXVI, 576.

(776) § 3. Fishways in Dams—Penalty.—No navigable stream of this State shall be obstructed by dam or otherwise unless there be provided a fishway in same. For the violation of this Section the person or corporation so violating shall be fined not less than twenty-five ($25.00) dollars for each day that such obstruction shall exist without said fishway in same after having been notified in writing by any person that such obstruction exists.

Crim. Code, '12, § 759; 1911, XXVII, 125.

(777) § 4. Catching Nonmigratory and Migratory Fish.—Any nonmigratory fish, except game fish, may be caught at any time or in any manner not prohibited by this Chapter. Migratory fish may be caught in accordance with such laws as now exist or may hereafter be enacted.

Crim. Code, '12, § 760; 1911, XXVII, 126.

(778) § 5. Penalty for Violation of Provisions Herein.—For the violation of any provisions of this Chapter not otherwise provided for shall,

upon conviction, be fined not less than ten dollars nor more than twenty-five dollars, or be imprisoned for not less than ten days nor more than thirty days, and for the violation of any provision of Section (776) upon conviction, be fined not less than one dollar nor more than twenty-five dollars, or be imprisoned for not less than one day nor more than thirty days.

Crim. Code, '12, § 761; 1911, XXVII, 126.

(779) § 6. Fish Unlawfully Caught to Be Sold.—Any fish caught contrary to the provisions of Sections (774) to (778), inclusive, shall be sold to the highest bidder and the money transmitted to the State Treasurer to the credit of the Game Protection Fund, and any fines collected under the provisions of Sections (774) to (778), inclusive, shall be paid to the State Treasurer to the credit of the Game Protection Fund.

Crim. Code, '12, § 762; 1911, XXVII, 126.

(780) § 7. Same—Fines—Disposition of.—All fines collected for the violation of any of the Sections of this Chapter shall be turned into the County Treasury to be disbursed the same as any ordinary county fund.

Crim. Code, '12, § 763; 1911, XXVII, 126.

(781) § 8. Penalty for Fishing or Trespassing in Any Manner.—Whenever any one shall have made or created an artificial pond on his own land, and shall put therein any fish or the eggs of any fish or oysters, for the purpose of breeding and cultivating fish or oysters, and shall give notice thereof, by written or printed handbills, put up in public places near the said pond, any person or persons who shall thereafter enter in about such pond for the purpose of fishing, or shall catch or take away any fish or oysters therefrom, or shall be guilty of committing any trespass upon any artificial fish pond by fishing in the same, or in any manner using any means to destroy the fish or oysters raised or collected in such pond, or by breaking the dam or dams for the purpose of permitting the fish or oysters to escape, or by poisoning the same, or in any manner destroying or injuring the same, upon conviction, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than twenty dollars nor more than one hundred dollars or be imprisoned at the discretion of the Court; which fine, if imposed, shall go one-half thereof to the informer and the other half thereof to the person or persons whose property shall have been injured: *Provided,* That nothing in this Section shall be construed as applying to ponds used as water power for manufacturing purposes.

Crim. Code, '12. § 764; Crim. Code, '02, § 534; G. S. 1680; R. S. 414; 1872, XV, 161.

(782) § 9. Staked Nets, Seines, Etc., Not to Extend More Than Half Way Across Stream.—It shall be unlawful at any time during the year to stretch any staked nets, seines, wire fences or traps more than half way across the river or streams, or to use any seines in any of the lakes of this State, except where such basins or lakes lie wholly within limits of private property of this State. Any person violating this Section shall be punished as prescribed in Section (794).

Crim. Code, '12. § 765; 1901. XXIII, 399.

(783) § 10. Nets Obstructing Passage of Fish in Savannah River, Near City of Augusta.—It shall be unlawful for any person or persons to obstruct the free and convenient passage of fish in Savannah River by nets, seines, or other similar devices, or to fish with nets, seines, or similar devices in said river within one mile below or one-half of one mile above the dam across said river near the city of Augusta, and known as the Augusta Canal Dam.

Crim. Code, '12, § 766; Crim. Code, '02, § 536; G. S. 1690; R. S. 423; 1780, V, 124.

(784) § 11. Restrictions as to Fishing on South Carolina Side of Savannah River.—It shall be unlawful for any person or persons hereafter to establish any fishery by nets, seines, traps, or other or similar devices, on the South Carolina side of said river within the locality set forth in the preceding Section hereof, or to enter said locality of said river from the South Carolina side thereof, for the purpose of fishing with said devices, except for the purpose of visiting traps already established.

Crim. Code, '12, § 767; Crim. Code, '02, § 537; G. S. 1683; R. S. 417; 1882, XVII, 783.

(785) § 12. Misdemeanor to Place Traps on South Carolina Side of Savannah River.—It shall be a misdemeanor for any person or persons to place any trap in Savannah river, on the South Carolina side thereof, within the above distances, where no such traps are now located, or to fail to close up such traps as are now there during the close time now provided by law.

Crim. Code, '12, § 768; Crim. Code, '02, § 538; G. S. 1684; R. S. 418; 1882, XVII, 783.

(786) § 13. Punishment for Violation of Provisions as to Savanah River.—Any person violating the provisions of the last three preceding Sections hereof, upon conviction before any Court of competent jurisdiction, shall, for each offense, be imprisoned for a term of not less than three months, or fined in a sum of not less than two hundred dollars, or both fined and imprisoned, in the discretion of the Court.

Crim. Code, '12, § 769; Crim. Code, '02, § 539; G. S. 1685; R. S. 519; 1882, XVII, 783.

(787) § 14. Obstructions in Streams—Close Time—Penalty—Seines and Nets—Disposition of Fines.—At no time during the year shall there be any permanent obstructions of any kind or nature whatever in any of the inland creeks, streams or waters of the State to the free migration of fish; or shall any seine, net or any plan or device for the stoppage or collecting of fish which obstructs any portion of any creek, stream or inland waters of the State, be set or used in any manner whatsoever in any such creeks, streams or inland water within one mile of the mouth of the Waccamaw, Great Pee Dee and Bull Creek Rivers, and not below a line from where Mosquito Creek empties into Winyah Bay, across said bay in an easterly direction to the opposite shore of said bay; and there shall be a close time in all the creeks, streams and inland waters of the State from the setting of the sun each Saturday until the rising of the sun each Wed-

nesday, during which time all seines, nets or any plan or device for the stoppage or collecting of fish, which obstructs any portion of any creek, stream or inland waters other than a dam for manufacturing purposes, shall be removed from said creek, streams or inland waters; and any person or persons using such seine, net, plan or device in violation of the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any Court of competent jurisdiction, shall be fined in the sum of two hundred dollars, one-half of which shall go to the informer and the other half to the Court in which the case shall be tried, or be imprisoned for a period of not less than three nor more than six months, or both, in the discretion of the Court trying the case. Nothing herein contained shall apply to fishing with dip nets used by hand. And wherever any seine, net or any plan or device for the stoppage or collecting of fish, as above stated, shall be used, the Chief Game Warden or any Warden shall have the authority, in the name of the State, to seize and hold said seine, net or plan or device for the stoppage or collecting of fish, and to use the same as evidence for the purpose of convicting any violating the provisions of this Section; and, upon conviction, of the person so using said seine, net or plan or device for stoppage or collecting of fish, the same shall be forfeited to the State and sold, the proceeds of said sale to be transmitted to the credit of the Game Protection Fund.

Crim. Code, '12, § 770; Crim. Code, '02, § 517; G. S. 1669; R. S. 403; 1870, XIV, 338; 1871, XIV, 660; 1872, XV, 191; 1878, XVI, 539; 1885, XIX, 58; 1889, XX, 379; 1915, XXIX, 187; 1918, XXX, 717.

(788) § 15. **Fishways to Be Constructed.**—All manufacturing companies or persons who have erected, or may hereafter erect, artificial dams across the inland creeks, rivers, streams or waterway of this State which prevent the migratory fish from ascending the same, unless excused by the County Board of Commissioners, shall construct proper fishways or ladders over the same, to be approved by the County Board of Commissioners of the county in which such dam is situated, and should such manufacturing company, person or persons, refuse or fail so to do within thirty days after notice from the County Board of Commissioners, they shall be liable to a fine or penalty of five thousand dollars, recoverable by the county in which such dam has been or may be erected in a Court of competent jurisdiction.

Crim. Code, '12, § 771; Crim. Code, '02, § 518; G. S. 1670; R. S. 404; 1871, XIV, 661; 1908, XXV, 1036.

(789) § 16. **Impurities Not to Be Cast in Streams.**—Should any person or persons cause to flow into or be cast into any of the creeks, streams, or inland waters of this State, any impurities that are poisonous to fish or destructive to their spawn, such person or persons shall, upon conviction thereof, be punished with a fine of not less than five hundred dollars, or imprisonment of not less than six months in the county jail; the fine to go one-half to the informer and the other half to the county.

Crim. Code, '12, § 772; Crim. Code, '02, § 519; G. S. 1671; R. S. 405; 1726, III, 270; 1871, XIV, 661.

(790) § 17. Fish Sluices to Be Designated.—It shall be the duty of the County Commissioners to designate the fish sluices on the several rivers, so as to leave one or more passages for fish up the said river, which sluices shall be sixty feet wide, or, where there are two or more such sluices, they shall be, together, sixty feet wide; and when they shall be so designated, it shall be lawful for any person to open such sluices; and if any person shall obstruct any such sluice, when once opened, so as to prevent the free passage of fish up the same, and every part thereof, he shall be deemed guilty of a public nuisance, and, on conviction thereof in the Court of General Sessions, shall be fined one hundred dollars, and shall stand committed until such fine be paid, for a time not exceeding ten days, at the discretion of the Court before which such conviction may take place. One-half of the fine shall be paid to the informer, and the other half into the treasury of said State. Whenever a fish sluice in any of the rivers aforesaid shall have been designated as aforesaid, any stoppage of the same shall be regarded as a public nuisance and may be abated as such.

Crim. Code, '12, § 773; Crim. Code, '02, § 520; G. S. 1672; R. S. 406; 1827, VI. 340; 1837, VI, 569; 1879, XVII, 74.

(791) § 18. No Fish Traps Near the Dams on Any Navigable Streams.—It shall not be lawful for any person whomsoever, at any time, to erect or keep up any fish trap or other device for catching fish, or to fish with any net or seine, within eighty yards of any dam erected by the order or at the expense of the State across any stream intended thereby to be made navigable, in which dams there shall be left or constructed any sluice for the passage of fish; and all and every person or persons offending shall, for each and every offense, pay the sum of twelve dollars, to be recovered before the Court of General Sessions of the county where the offense may have been committed, one-half of which penalty shall go to the informer and the other half to the support of the work to which the dam is attached; and all traps and other devices for catching fish erected or kept up in violation of this Section are hereby declared public nuisances and may be abated as such.

Crim. Code, '12, § 774; Crim. Code, '02, § 521; G. S. 1675; R. S. 407; 1827, VI, 340; 1822, IX, 521.

The right to take fish in a navigable river is common to all, and any party has the right to construct fish traps beyond the prescribed distance from the dam. Boatwright *v.* Bookman, Rice 447; Jackson *v.* Lewis, Chev. 259.

(792) § 19. Penalty for Obstructing Navigation by Fish Traps.—If any person shall keep, put, or cause to be kept, put or placed by him, her or them, any fish trap in or near any boat sluice in any of the rivers within this State so as thereby to injure or in the least obstruct the free navigation of said rivers, every such person or persons so offending shall forfeit for each and every such offense the sum of one hundred dollars, for the use of the State.

Crim. Code, '12, § 775; Crim. Code, '02, § 522; G. S. 1676; R. S. 408; 1829, VI, 393.

Boatwright *v.* Bookman, Rice 447; Jackson *v.* Lewis, Chev. 259.

(793) § 20. Stealing From a Fish Trap—Penalty.—Any person who shall take and carry away from any fish trap in the waters of this State

any fish caught and being in said trap, with intent to defraud and deprive the owner or owners of said trap of the said fish, shall be deemed guilty of a misdemeanor, and, on conviction thereof by indictment, shall be punished for said offense by fine not exceeding two hundred dollars and imprisonment not exceeding six months.

Crim. Code, '12, § 776; Crim. Code, '02, § 523; G. S. 1677; R. S. 409; 1829, VI, 393.
Boatwright *v.* Bookman, Rice 447.

(794) § 21. Use of Explosives in Streams Unlawful—Provisos.—It shall be unlawful for any person to kill, injure or destroy any fish in the fresh waters of this State by the use of dynamite, giant powder or other explosive material, and any person violating this Section shall be deemed guilty of a misdemeanor, and be imprisoned for not more than six months, or be fined not more than one hundred dollars, or both fine and imprisonment, at the discretion of the Court: *Provided,* That nothing herein contained shall be construed to forbid the use of explosive material by the officers of the State or United States Government in the discharge of their official duties: *Provided, further,* That nothing herein contained shall be construed to prevent the use of any such explosive material by any person or corporation mining phosphate rocks in any of the navigable streams of the State under license from the State: *Provided, further,* That nothing herein contained shall be construed to prevent the use of any such explosive material by any person or corporation in the rafting or floating of logs in any of the navigable streams of this State, or in opening or straightening out the current of such streams for such purpose under a permit from the United States Government.

Crim. Code, '12, § 777; Crim. Code, '02, § 527; R. S. 413; 1889, XX, 354; 1914, XXVIII, 564.

(795) § 22. Regulation Under Board.—The regulation of catching, gathering, selling, exporting or canning oysters, terrapin, clams, shad and sturgeon is under the supervision of the Board of Fisheries.

1917, XXX, 170; 1921, XXXII. 309.

(796) § 23. License for Penning Terrapin—For Buying—Violation a Misdemeanor—Penalty.—Each and every person, firm or corporation engaged in the penning or exporting from this State of terrapin, shall apply to the County Treasurer in his respective county for a license for the same, and the said County Treasurer shall, upon the payment of twenty-five ($25.00) dollars by said person or persons, firm or corporation, issue to each person or persons, firm or corporation, a license to pen in this State and export from the State terrapin for one (1) year, subject, however, to Section 1 and Section 38 of the Criminal Code; all persons, firms or corporations other than common carriers, who, for themselves or others, hold terrapin in confinement for the purpose of sale or delivery shall be deemed and considered as being engaged in the business of penning terrapin within the meaning of the article. And whenever any one person or persons, firm or corporation shall maintain a pen or store or agency in more than one place or locality, for the purpose of buying terrapin for commercial purposes, the payment of a separate license of twenty-five ($25.00) dollars for such pen, store,

or agency shall be required: *Provided,* That nothing herein contained shall be construed so as to require any such persons, firm or corporation to take out any license for any employee or employees engaged by such person or persons, firm or corporation, respectively, for catching or gathering terrapin. Any person or persons, firm or corporation buying or receiving terrapin for the purpose of reselling or using them in any way for commercial purposes, shall be subject to the same license as herein required for penning; and all terrapin penned in this State shall be subject to a tax of ten (10) cents each whether the same shall have been gathered, caught, or bought within the State or not. That any person, persons, firm or corporation penning terrapin for any length of time, whether same is used for commercial purposes or not, shall be required to pay a license fee of twenty-five ($25.00) dollars. Any employee or employees buying or selling terrapin for any person, persons, firm or corporation shall be subject to the same license fee of twenty-five ($25.00) dollars. Any person, persons, firm or corporation violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five ($25.00) dollars nor more than one hundred ($100.00) dollars, or imprisonment for not less than thirty (30) days nor more than six (6) months.

1921, XXXII, 309.

(797) § 24. Closed Season for Shad—Impost Tax—Nets.—It shall be unlawful to catch, buy or ship shad, and the specie of shad known as hickory shad, between the first day of April and the 31st day of December in any year within forty (40) miles of the mouth of any river emptying into any gulf, bay or ocean, and above said limit to the source of any river between the first day of May and the thirty-first day of December in any year. An impost tax of five (5) cents shall be put upon each shad and one (1) cent upon each hickory shad offered for sale or shipped from any point within this State to another point within this State or without this State: *Provided,* Shad caught in this State for personal use only shall be exempt from this tax. No nets shall be used under five and a half (5½) inch mesh for white shad, and no net shall be used under three and a half (3½) inch mesh for hickory shad, and no net shall be stretched more than half way across any navigable stream, nor within two hundred yards of each other, and no nets of any kind shall be allowed below a line where Mosquito Creek empties into Winyah Bay across said bay in an easterly direction to the opposite shore of said bay, nor shall any device, net or seine for the stoppage or collection of fish be set or used in any manner whatsoever within one mile of the mouth of the Waccamaw, Great Pee Dee and Bull Creek rivers.

1917, XXX, 171. 1919, XXXI, 650. 1921, XXXII, 309.

(798) § 25. Closed Season for Sturgeon and Caviar—Use of Nets—License—Violation a Misdemeanor—Penalty.—There shall be an open and close season for the catching and shipping of sturgeon and caviar, as follows: The open season shall be from April 1 to October 1 in each year, and no person or persons shall fish for, catch, or have in his or their possession any sturgeon between the first of April and the first

day of October, both dates inclusive. Each person, firm or corporation fishing for sturgeon shall make a sworn report to the Inspector by the first day of May of the number of nets he, she or they have or will use during the season, and they shall make a written report to the Chairman of the Board of Fisheries within five (5) days after the close of the season of the number of sturgeon caught by such person, firm or corporation and the number of pounds of caviar shipped. No sturgeon net shall be used without having a license attached to the same when in use in such manner; that is, shall be on top or above the water in plain sight at all times. No nets shall be used less than ten (10) inches mesh. There shall be a license for the catching, buying and shipping of sturgeon or caviar as follows: Each sturgeon net license, fifteen ($15.00) dollars. Each person or firm shipping caviar or sturgeon shall pay a license of one hundred ($100.00) dollars; non-residents fishing for sturgeon shall pay a license of ten ($10.00) dollars; nonresidents buying or shipping sturgeon or caviar, five hundred ($500.00) dollars; nonresidents using personal nets or boats shall pay a license of two hundred ($200.00) dollars. A license pursuant to these rules is nontransferable, and if a licensed net be used by any other person than the licensee or person in his employ, or under his immediate supervision, it shall be deemed forfeited and revoked. The owner of each nonresident license must exhibit the same when requested by each Inspector or member of the Board of Fisheries. Applicants for license shall apply to the County Treasurer, license blanks, tags, etc., to be furnished to the Treasurer by the Board of Fisheries. The Board of Fisheries may revoke any license granted hereunder at any time for any reason which to the Board may seem sufficient. Any person or persons, firm or corporation violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than ten ($10.00) dollars nor more than two hundred ($200.00) dollars, or imprisonment for not less than thirty (30) days nor more than six (6) months.

1917, XXX, 171; 1919, XXXI, 120, 650; 1920, XXXI, 960; 1921, XXXII, 309.

(799) § 26. License for Fishing Boats—Violation a Misdemeanor—Penalty.—Any person or persons, firm or corporation or employees of same fishing for edible salt water fish within the boundaries of the State shall pay a license of five ($5.00) dollars for each boat used when fishing for commercial purposes. Each boat shall be designated by a number which shall appear on the license, number of boat being given by the purchaser of a license. The owner of each boat shall make a report to the Inspector in his district, on or by the fifth of each month, of the number of fish caught. Applicants for license shall apply to the County Treasurer, licenses to be furnished the County Treasurer by the Board of Fisheries. Any person, persons, firm or corporation violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than five ($5.00) dollars nor more than fifty ($50.00) dollars, or imprisonment for not less than five (5) days nor more than thirty (30) days.

1921, XXXII, 309.

(800) § 27. **Forfeiture of Vessels, Etc., Used in Violation of Act—Penalties—Evidence—Searches.**—Any vessel, boat, or other craft, tackle, apparel, anchors, cable, sails, appurtenances, and any dredge, scrapes or other instruments used in violation of this Chapter shall be, together with the cargo of such vessel, craft or boat, forfeited to the State, and upon being condemned as forfeited in proceedings upon a hearing before the Board, the net amount realized from the condemnation proceedings shall be paid over by the Board into the treasury of the State. The persons charged with the enforcement of Sections 30 to —, inclusive, shall have the right, without warrant, to arrest any person or persons who has, or have, in her, his or their possession, any oysters, clams, terrapin, shad or sturgeon in violation of Sections 26 to —, inclusive, and take such person or persons to the nearest Magistrate and swear out the proper arrest warrants. The unlawful possession of such oysters, clams, terrapin, shad or sturgeon shall be *prima facie* evidence of guilt, and if such person or persons is held for trial by the Magistrate conducting the preliminary examination the said Magistrate shall issue an order for the release of the terrapin and dumping of oysters, clams, shad or sturgeon. Any person or persons violating the provisions of this Section shall be fined not less than twenty-five ($25.00) dollars nor more than one hundred ($100.00) dollars, or imprisonment for not less than twenty (20) days nor more than thirty (30) days. The persons charged with the enforcement of Sections 27 to —, inclusive, shall have authority to enter and search any vessel, car, vehicle or place suspected of containing oysters, clams, terrapin, shad or sturgeon in violation of Sections 30 to —, inclusive, and shall be authorized to open and examine any package containing any article subject to taxation under provisions of said sections.

1917, XXX, 170. 1921, XXXII, 309.

(801) § 28. **Unlawful for Nonresidents to Gather Oysters, Etc.—Provisos—Violation a Misdemeanor—Penalty.**—It shall be unlawful for any person to gather or catch clams, oysters or terrapin from public grounds of the State who is not a *bona fide* resident of this State, and who has not continuously resided herein for two years: *Provided, however,* That nothing contained in this section shall prohibit a nonresident who shall have leased any lands for the purpose of planting and cultivating shell fish under the provisions of Sections (997)-(1000) of the Civil Code, from gathering oysters from the natural beds of the State for the purpose of planting and cultivating them upon leased lands: *Provided, however,* That nothing in this Section shall prevent the gathering of oysters by nonresidents who are engaged in the business of operating oyster canning factories within this State, or shucking raw oysters within this State, or who are employed by those who are engaged in the said business. Subject to the provisions of this Chapter the employment of nonresidents by citizens of this State lawfully engaged in any of the fishing industries shall be permitted, but no nonresident shall be allowed to gather or catch any shell fish or other fish from the public lands and waters of this State for market purposes, except as such employee. Any person or persons, firm or corporation violating the provisions of this Section shall be

guilty of a misdemeanor, and, upon conviction, fined not less than fifty ($50.00) dollars nor more than one hundred ($100.00) dollars, or to be imprisoned for not less than twenty (20) days nor more than thirty (30) days.

1917, XXX, 170. 1921, XXXII, 309.

(802) § 29. Closed Season for Oysters and Clams—Proviso—Violation a Misdemeanor—Penalty.—It shall be unlawful for any person or persons, firm or corporation, to remove, buy or sell any oysters from the natural reefs, bottoms, beds or marshes, the property of the State, between the first day of May and the first day of October, inclusive, clams from the first day of July to the first day of October: *Provided,* That nothing in this Section shall be taken to forbid the removal of oysters from said natural reefs, beds, bottoms or marshes for the purpose of replanting said oysters or clams. Possession of oysters or clams during the term specified shall be *prima facie* evidence of infringements of this provision, and that the onus of proof that such oysters or clams coming from private beds or from without the State are to be used for planting purposes shall rest upon the accused. Any person or persons violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five ($25.00) dollars nor more than one hundred ($100.00) dollars, or imprisonment for not less than twenty (20) days nor more than thirty (30) days.

1917, XXX, 170. 1921, XXXII, 309.

(803) § 30. Use of Scoops, Dredges, Etc., Regulated—Violation a Misdemeanor—Penalty.—It shall be unlawful for any person or persons to use scoops, scrapes or dredges for the purpose of taking or catching of oysters or clams from the public grounds of any bed, rivers, creeks, strait or any tributary of such in this State under twelve feet in depth at low tide. Any person or persons violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five ($25.00) dollars, or to be imprisoned for not less than six months.

1917, XXX, 170. 1921, XXXII, 309.

(804) § 31. Removal from State of Oysters or Clams in Shell Prohibited—Penalty—Tax on Export of Seed Oysters—Shipment of Oysters from Leased Grounds—Tax—Penalty for Violation.—It shall be unlawful for any person or persons, firm or corporation to carry any oysters or clams in the shell out of the State in any boat or vessel, or by other mode of transportation, and all boats or vessels, or other vehicles of transportation found loaded with oysters for transportation out of this State shall subject the owner or person in charge to a fine of not less than one hundred ($100.00) dollars nor more than five hundred ($500.00) dollars, or imprisonment for not less than one month nor more than twelve months: *Provided, however,* That nothing in this Section shall prevent the carrying of seed oysters out of the State for planting purposes, with the consent of the Board of Fisheries, and that a tax of five (5) cents per bushel be paid for each bushel so carried. Any person or persons, firm or

corporation carrying seed oysters out of the State for planting purposes shall replace, on the grounds from which same are taken, twenty-five (25) per cent. of the amount so taken in oyster shells. Shells to be planted under the direction of the Inspector: *Provided, further,* That oysters which have been collected from lands leased from the State may be exported in the shell from the State: *Provided,* They be shipped in barrels or other packages, and that a tax of five (5) cents per bushel be paid for each bushel so exported, and that a stamp or stamps purchased from the County Treasurer in payment of said tax to be affixed to each package, certifying that the tax upon the same has been paid. Any person or persons, firm or corporation shipping or transporting such oysters without the aforesaid stamp attached to package shall be punished as above provided in this Section, and all persons or corporations engaged in exporting such oysters shall be required to keep a book in which shall be entered the date and amount of each shipment, and shall make an itemized report thereof within the first four (4) days of each month to the Board of Fisheries under penalty of a fine not exceeding one hundred ($100.00) dollars, or imprisonment not exceeding thirty (30) days.

1917, XXX, 170. 1921, XXXII, 309.

(805) § 32. Small Oysters to Be Returned—Planting Oysters Required of Canneries—Penalty for Failure.—All oysters taken from public grounds of this State with whatsoever instruments or implements shall be culled, and all oysters whose shell measures less than three inches from hinge to mouth except what are attached to a larger oyster and cannot be removed without destroying the small oyster, and all shells taken without said oysters shall be returned to the public grounds near and where taken, and no oysters shall be allowed by the Inspector to be marketed which shall consist of more than ten per cent. of smaller oysters in shells. The manager or person in charge of each canning factory in this State shall each year distribute upon such lands or bottoms, between high water and low water mark as shall be designated by the Chairman of the Board of Fisheries or by an Inspector under his approval and in such manner as said Chairman or Inspector shall require, a quantity of oyster shells which shall be equal to not less than three per cent. or more than thirty per cent. of the quantity of oysters in the shell purchased or received by such canning factory during said year, the quantity of shells within the limits required to be deposited and distributed by the manager or person in charge of such canning factory to be fixed by the Board of Fisheries or by the Chairman of the said Board for each year, of which requirement they shall be duly notified and shall deposit said shells not later than the first day of June: *Provided,* That the grounds or bottom designated shall be within ten (10) miles of the canning factory from which the shells shall be required to be deposited and distributed upon them. Any person or persons, firm or corporation violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred ($100.00) dollars, or be imprisoned for a term of not less than one (1) month nor more than six (6) months.

1917, XXX, 170. 1921, XXXII, 309.

(806) § 33. Containers for Oysters Prescribed—Violations a Misdemeanor—Penalty.—All oysters sold in the shell in this State shall be measured in a circular tub with straight sides, straight solid bottom, holes in the bottom not more than one-half inch in diameter. The said measure shall have the following dimensions: A bushel shall measure eighteen (18) inches from inside across bottom and twenty-one (21) inches from bottom to top of chime. All measures used for buying or selling oysters shall have a grade, to be adopted by the Board of Fisheries or its lawful Inspector. Any person violating this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten ($10.00) dollars nor more than fifty ($50.00) dollars, or imprisonment for not more than thirty (30) days. All measures found in the possession of any such person not meeting the requirements of this Section shall be destroyed by said Board or its lawful agents.

1917, XXX, 170. 1921, XXXII, 309.

(807) § 34. Sale or Shipment of Canned, Etc., Oysters, Etc., Without Stamp Unlawful—Violation a Misdemeanor—Penalty.—It shall be unlawful for any person or persons, firm or corporation, to sell, or ship, and it shall be unlawful for any person or persons, firm or corporation, to receive or transport said canned oysters, raw shucked oysters, terrashed clams, except there be affixed to each package a stamp or stamps, furnished by the Board of Fisheries certifying that the said impost tax thereon has been paid. Any person or persons, firm or corporation violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand ($1,000.00) dollars nor less than five hundred ($500.00) dollars, or to be imprisoned for not more than twelve (12) months nor less than six (6) months.

1917, XXX, 170. 1921, XXXII, 309.

(808) § 35. Counterfeiting Stamps a Misdemeanor—Penalty.—It shall be unlawful for any person or persons to counterfeit any stamp adopted by Board of Fisheries, or produce any similar design thereof, or to aid or assist in the uttering. Any person or persons, firm or corporation violating this Section shall be guilty of a misdemeanor, and, upon conviction, shall pay a fine of not less than five hundred ($500.00) dollars nor more than one thousand ($1,000.00) dollars, or to be imprisoned for not less than six (6) months nor more than twelve (12) months.

1917, XXX, 170. 1921, XXXII, 309.

(809) § 36. Failure to Make Reports, or Making False Reports, or False Entries in Books a Misdemeanor—Penalty.—Any person or persons, firm or corporation failing or refusing to make the reports required by Section (1002) of the Civil Code, or who shall make false entries in the books required by said Section of the Civil Code, or who shall make false reports, shall be deemed guilty of a misdemeanor, and, upon conviction in any Court of competent jurisdiction, shall be fined not less than twenty-five ($25.00) dollars nor more than one hundred ($100.00) dol-

lars, or imprisoned for not less than ten (10) days nor more than thirty (30) days.

1917, XXX, 170. 1921, XXXII, 309.

(810) § 37. Closed Season for Terrapin—Terrapin on Hand at Beginning of Closed Season to Be Reported—Violation of Section a Misdemeanor—Penalty.—It shall be unlawful for any person or persons, firm or corporation to catch, purchase, trap, sell, except as hereinafter provided, or have in his possession terrapin between the first day of April and the fifteenth day of July in each year. Any person or persons, firm or corporation having terrapin in his, her or its possession previous to the first day of April in any year, desiring to carry them over and retain possession of the same until the succeeding fifteenth day of September, shall, within ten (10) days after the first of April of each year, make a report under oath to the Board of Fisheries of the number of terrapin he, she or they have in his, her or their possession for that purpose on the first day of April of each year, said report to state location of said terrapin, in what pen said terrapin are kept, so that said Board may be able to find said terrapin or pens and ascertain the correctness of the report. Any person or persons, firm or corporation violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than twenty-five ($25.00) dollars nor more than two hundred ($200.00) dollars, or imprisonment for not less than thirty (30) days nor more than six (6) months.

1917, XXX, 170. 1921, XXXII, 309.

(811) § 38. Unlawful to Catch, Etc., Terrapin Less Than Five Inches in Length—Seines—Prima Facie Evidence—Arrest—Penalty.—It shall be unlawful to catch, sell, hold in possession any terrapin less than five inches in length under the medial line of the bottom of the shell, or to use any seine of a smaller mesh than five and three-fourths (5¾) inches for the purpose of catching terrapin. The having of terrapin under five inches in length, or pen for the penning of terrapin, where the owner or manager has not taken out license to pen terrapin, as provided in the Civil Code, or of a terrapin seine of smaller mesh than five and three-fourths (5¾) inches, whether the owner or manager of said boat has taken out license to gather terrapin or not, shall be *prima facie* evidence of the violation of this Section and the person charged with the enforcement if this Section shall have the right to arrest such person or persons without first serving a warrant and take such person or persons to the nearest Magistrate and there swear out the proper arrest warrant. Any person or persons, firm or corporation violating the provisions of this Section shall be punished by a fine of not more than one hundred ($100.00) dollars nor less than twenty-five ($25.00) dollars, or be imprisoned for not more than thirty (30) days nor less than fifteen (15) days.

1917, XXX, 170. 1921, XXXII, 309.

(812) § 39. Oysters, Etc., Subject of Larceny.—Oysters or clams imbedded, or planted oysters or clams deposited by any person making

up a cargo for market and shells planted for the formation of oyster or clam beds shall be deemed goods and chattels of which larceny may be committed although there be no interval between the severing and the taking away.

1921, XXXII, 309.

(813) § 40. Unlawful Taking of Certain Oysters Larceny.—Any person or persons who shall unlawfully gather, remove, take or steal from any oyster bed, laying or fishery, any oysters or oyster brood there growing, lying or being such oyster bed, laying or fishery being the property of another person or persons, or cultivated and used by the proprietors thereof for the production, growing and improvement of oysters, and being sufficiently marked out, shall be deemed and held guilty of larceny, and he, she, or they, his, her or their aiders, helpers, abettors or accessories, being thereafter convicted by due course of law, shall be punished as in case of larceny.

1917, XXX, 170. 1921, XXXII, 309.

(814) § 41. Unlawful Use of Dredge, Etc., for Purpose of Taking, a Misdemeanor—Penalty.—If any person or persons who shall unlawfully and wilfully use any dredge or net, instrument or engine, whatsoever, within the limits of any such oyster beds, laying or fishery, as aforesaid, for any purpose of taking oysters or oyster brood, although none be actually taken, or shall have any net, instrument or engine drag upon the ground or soil of any such oyster bed, laying or fishery, every person or persons so offending shall be held and deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine or imprisonment or both, as the Court may award, such fine not to exceed one hundred ($100.00) dollars, and such imprisonment not to exceed six months. Nothing contained in this Section or Section 45, shall be construed to prevent any person or persons from catching or fishing for any swimming or floating fish with any net, instrument or engine adopted for taking swimming or floating fish.

1917, XXX, 170. 1921, XXXII, 309.

(815) § 42. Open Season for Catching Short Nose Sturgeon.—It shall be lawful for the citizens of this State to catch in the waters of this State, and to buy, sell or ship short nose sturgeon (*Acipenser brevirostris Le Sueur*) between the first day of May and the first day of July in each year: *Provided*, No such short nose sturgeon shall be caught at a distance of more than fifteen miles from the mouth of any river emptying into any bay, gulf or ocean on the border of this State. Nothing in the provisions of this Section shall be held to authorize the catching, buying, selling or shipment of the common or caviar sturgeon, or otherwise, called *acipenser sturio lenaeus*.

1916, XXIX, 779.

(816) § 43. Penalty for Violation of Provisions of Civil Code as to Shad or Sturgeon.—Any person or persons, firm or corporation violating the Sections in the Civil Code pertaining to shad and sturgeon shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less

than ten ($10.00) dollars nor more than one hundred ($100.00) dollars, or imprisoned for not less than ten (10) days nor more than thirty (30) days.

1921, XXXII, 309.

(817) § 44. Use of Purse Nets or Seines in Salt Waters of the State, or Manufacture of Fertilizer from Certain Fish So Caught, a Misdemeanor —To What Limits Applicable—Penalties.—It shall be unlawful for any person, firm or corporation to fish for or catch any mullets, menhaden, fatbacks, or any other kind or class of fish within the salt waters of the State of South Carolina to the extreme limit of the State's jurisdiction in and over such waters in any purse net or purse seines. Any person or persons who shall knowingly cook or manufacture for fertilizer any menhaden, fatbacks, mullets or fish of like kind and nature caught in any purse net or purse seine, at any place within this State shall be guilty of a misdemeanor, and for each and every offense shall be fined not less than five hundred ($500.00) dollars or imprisoned for one year, or both, at the discretion of the Court. For the purpose of this Section the following boundaries are hereby declared to be the boundaries to which the waters of the said State extend, to wit: A distance of three nautical miles measured from the outer beach or shores of the State of South Carolina, out and into the waters of the Atlantic Ocean; and any portion of any water within a distance of three miles from said waters to the Atlantic Ocean to any beach or shore of said State shall be deemed within the waters of said State for the purpose of this Section. Every person found fishing for menhaden, fatbacks or mullets within three miles of the shore of any county in this State shall be presumed to have violated this Section, and all such persons, firm or corporation shall be subject to all fines and penalties prescribed in this Section, and they may be prosecuted in the Courts of any county in this State, and all persons aiding and abetting shall be guilty as principals.

1918, XXX, 885; 1921, XXXII, 309.

(818) § 45. Unlawful to Gather Turtle Eggs Without License, or Molest Turtle on Beach—Violation a Misdemeanor—Penalty.—It shall be unlawful for any person or persons, firm or corporation to gather turtle eggs for commercial purposes without taking out a license of five ($5.00) dollars for each year; license to be purchased from the County Treasurer; no person or persons shall molest or injure in any way any turtle found on any of the shores of the beaches of this State. Any person or persons violating the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten ($10.00) dollars nor more than twenty-five ($25.00) dollars, or imprisonment for more than thirty days.

1921, XXXII, 309.

(819) § 46. Closed Season on Terrapin for Commercial Purposes from July 15, 1921, to July 15, 1925.—There shall be a close season on terrapin beginning July 15, 1921, and ending July 15, 1925. No person or persons, firm or corporation shall catch or gather terrapin for com-

mercial purposes within the above dates: *Provided, however,* That nothing herein contained shall prohibit any person from catching or gathering terrapin for personal use.

1921, XXXII, 309.

CHAPTER XX.

Prohibition of Intoxicating Liquors.

(820) § 1. Sale of Alcoholic Liquors Prohibited.—All alcoholic liquors and beverages, whether manufactured within this State or elsewhere, or any mixture by whatsoever name called which if drunk to excess will produce intoxication, are hereby declared to be detrimental, and their use and consumption to be against the morals, good health and safety of the State, and contraband. It shall be unlawful for any person, firm, corporation or association within this State to manufacture, sell, barter, exchange, receive, accept, give away to induce trade, deliver, store, keep in possession in this State, furnish at public places or otherwise dispose of any spirituous, malt, vinous, fermented, brewed or other liquors and beverages, or any compound or mixture thereof which contains alcohol and is used as a beverage, and which if drunk to excess will produce intoxication, except as hereinafter provided.

Crim. Code, '12, § 794; 1909, XXVI, 60.

Taking an order for liquors to be shipped into the State and accepting purchase money therefor is a sale. State *v.* Small, 82 S. C. 93, 63 S. E. 4.

Storing and keeping in possession defined. Easley Town Council *v.* Pegg, 63 S. C. 98, 41 S. E. 18; State *v.* Nickels, 65 S. C. 175, 43 S. E. 521.

Conviction for sale in violation of a municipal ordinance. Spartanburg *v.* Parris, 85 S. C. 227, 67 S. E. 246. A single sale sufficient. Ridgeland v. Gens, 83 S. C. 562, 65 S. E. 828.

Sale may be shown on any day prior to finding of indictment, though not alleged therein. State *v.* Green, 61 S. C. 13, 39 S. E. 185.

Alcoholic liquors kept contrary to this Act are not subject to attachment. For the reasons that it would defeat the State's right of forfeiture, and could only be made effectual by a sale which this Section prohibits. Lanahan *v.* Bailey, 53 S. C. 489, 31 S. E. 333.

Keeping liquors for personal use without certificate being attached. State *v.* Chastain, 49 S. C. 170, 27 S. E. 2.

Scott *v.* Donald, 165 U. S. 107, 41 L. Ed. 648; Scott *v.* Donald, 165 U. S. 58, 41 L. Ed. 632.

Act, 26 Stat. 60, constitutional. Jellico *v.* Commissioners, 83 S. C. 481, 65 S. E. 725.

Title of Act of 1909, 26 Stat. 60, is broad enough to cover provisions in body against storing and keeping in possession, which are germane to purposes declared in title. State *v.* Fant, 88 S. C. 493.

Construed to mean it would be misdemeanor to keep in possession liquor which has been unlawfully obtained or to keep in possession for sale or some unlawful use liquor lawfully obtained, but not to forbid keeping in possession for lawful purpose liquor lawfully obtained. State *v.* Rookard, 87 S. C. 442, 69 S. E. 1076.

Liquor not contraband merely because unlawfully obtained. City of Anderson *v.* Fant, 96 S. C. 5, 79 S. E. 641.

As to interstate shipments under former law. Atkinson *v.* Express Co., 94 S. C. 444, 78 S. E. 516. Monumental Brewing Co. *v.* Whitlock, 111 S. C. 198; 97 S. E. 56.

Manufacturer need not be complete. State *v.* Ravan 91 S. C. 265:74 S. E. 500. State *v.* Pollard 120 S. C.—113 S. E. 69.

(821) § 2. Sales by Wholesale Druggists.—Wholesale druggists may lawfully sell in wholesale quantities to retail druggists and to public or charitable hospitals or to medical or pharmaceutical colleges, and in no other way, pure alcohol for medical purposes only, or grain alcohol to be used by chemists or bacteriologists actually engaged in scientific work and for such purposes only, and such wholesale druggist shall, at the end of each month in which any such sales have been made, file with the Clerk of the Court of the county in which they do business, a statement in writing under oath, giving the name of the purchaser, the price paid, the date of sale, and the quantity and character of the alcohol sold. If said wholesale druggist making such sale is not a resident of the State of South Car-

olina, then such statement shall be filed in the office of the Clerk of the Court of the county in which the purchaser resides.

Crim. Code, '12, § 795; 1909, XXVI, 60.

Was not repealed by Act of 1915, XXIX, 140.
E. M. Matthews Co. *v.* A. C. L. Ry. Co., 102 S. C. 494; 86 S. E. 1069.

(823) § 3. Sales by Retail Druggists.—Any retail druggist whose place of business is located in any of the incorporated towns or cities of this State, who is himself a registered or licensed pharmacist, or who regularly employs a registered or licensed pharmacist, may sell, in the manner herein set out, upon filing a bond in the sum of five thousand dollars, to be approved by the Clerk of the Court, in which such druggist does business, conditioned for a faithful observance of the provisions of Sections (821) to (830), such bond to be approved by the Clerk of the Court, pure alcohol for medical purposes only, grain alcohol to chemists and bacteriologists actually engaged in scientific work, and for such purposes only, and wine to be used for sacramental or religious purposes only: *Provided,* That nothing herein contained shall prevent such druggists from using alcohol in the compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of a special tax required of liquor dealers by the Government of the United States: *Provided, further,* That nothing herein contained shall prevent such druggists from compounding or selling medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia and National Formulary which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution, and which are manufactured and sold as medicine, and not as a beverage.

Crim. Code, '12, § 796; 1909, XXVI, 60.

(824) § 4. Sales Upon Physicians' Prescriptions.—No sale of pure alcohol, for medicinal purposes, shall be made by any retail druggist, except upon the prescription of a regular practicing physician of this State, who, before writing such prescriptions, shall make an actual examination of the person for whom the prescription is issued, and the said prescription shall be substantially in the following form: "State of South Carolina ..... County. To ..... Druggist. I, ..., a regular licensed and practicing physician under the laws of this State, do hereby certify that I have examined ....., a patient in my charge, and I do hereby prescribe for the use of said patient ..... alcohol, and I further certify, that the use of such alcohol is, in my judgment, absolutely necessary to alleviate or cure the illness or disease from which said patient is now suffering, and that I am not interested in the drug store to which this prescription is directed, nor in the profits on the drugs herein prescribed. Dated..... .....M. D."

Crim. Code, '12, § 797; 1909, XXVI, 60.

(825) § 5. When and How Prescriptions May Be Filled. No prescription shall be filled herein except upon the day upon which it is issued or the following day, and no more than one-half pint of alcohol shall be sold and delivered on any one prescription, and when such prescription

is filled, it shall not be refilled, but shall be delivered to the druggist filling the same, and at the end of the month in which the same is filled, it shall be filed by such druggist in the office of the Clerk of Court of the county in which said druggist is engaged in business: *Provided,* No druggist, who is also a practicing physician, shall fill his own prescriptions hereunder, nor shall they be filled at any drug store in which the said physician is financially interested: *Provided, further,* That the delivery of such alcohol sold under such prescription shall be made only directly to the person for whom such prescription is issued or to the physician, or to some one authorized by the physician, or in case of a minor to his parent or guardian or physician or some one authorized by said physician.

Crim. Code, '12, § 798; 1909, XXVI, 60.

When druggist innocently fills prescription for three pints of liquor by delivering it on three several days, one pint each day, does not violate the law. State *v.* May, 33 S. C. 39, 11 S. E. 440.

The penalty for violating former statute forbidding physician to give a prescription for intoxicating liquors to a person not a *bona fide* patient applied alike to towns where sales of liquor had been prohibited by special statute and by local option laws. State *v.* Atkinson, 33 S. C. 100, 11 S. E. 693.

The offenses under former statutes of selling liquor by druggists without a physician's prescription, and the offense by physicians of giving prescriptions for liquor except to *bona fide* patients, were held separate and distinct offenses although the statute provided in one section for a fine, etc., for violating these sections. State *v.* Atkinson, 33 S. C. 100, 11 S. E. 693.

Evidence of the number of prescriptions issued by defendant within a given time, to be filled at the same drug store, is relevant to the issue of defendant's good faith in making them. *Ib.*

(826) § 6. Sales of Alcohol for Use in Arts or Scientific and Mechanical Purposes.—Any retail druggist whose place of business is located in any of the incorporated towns or cities of the State may lawfully sell alcohol in quantities not greater than five (5) gallons to be used in the arts or for scientific or mechanical purposes, and such druggist may sell, in like quantities, to chemists and bacteriologists engaged in scientific work, and for such purposes only, and such druggists may sell in quantities, not greater than one-half gallon, wine used for sacramental or religious purposes only.

Crim. Code, '12, § 799; 1909, XXVI, 60.

(827) § 7. Statement by Purchaser.—Any person desiring to purchase alcohol for the purposes set out in Section (826) shall sign a written printed statement, giving his name, residence, occupation and the purpose for which he intends to use said alcohol, and he shall certify that said alcohol is purchased in good faith for such purpose and no other, and that said druggist shall, at the end of each month, file with the Clerk of Court of the county in which he is engaged in business, all such statements, with a certificate under oath, that said statements contain a true statement of all such sales.

Crim. Code, '12, § 800; 1909, XXVI, 60.

(828) § 8. Wine for Sacramental Purposes.—It shall be unlawful to sell wine for sacramental purposes except to a minister, pastor, priest, or regularly constituted officer of a regularly organized religious congregation or church. Any person, desiring to make such purchase, shall sign a written or printed statement, giving his name and residence and the name and location of the church for which such wine is purchased, and he shall certify that said wine is purchased in good faith, to be used for sacramental or religious purposes, and no other. Such statement shall be

filed, as provided for in the next preceding Section, in the office of the Clerk of the Court.

Crim. Code, '12, § 801; 1909, XXVI, 60.

(829) § 9. Prescriptions to Be Recorded.—All statements or prescriptions required by Sections (821) to (830), inclusive, to be filed in the office of the Clerk of the Court, shall be recorded and properly indexed by him in a book kept for that purpose, which shall at all times be opened for public inspection, and a certified copy of such record, or the original statement or prescription, with the certificate of the Clerk of the Court indorsed thereon, showing that it has been recorded, shall be *prima facie* evidence of the facts recited therein. For making such record, the Clerk of the Court shall be entitled to charge and collect for each prescription, a fee of five cents, and for each statement, other than prescription, a fee of fifteen cents, which shall be paid by the party filing the same.

Crim. Code, '12, § 802; 1909, XXVI, 60.

(830) § 10. Druggists to Keep a Record of Sales.—In addition to the requirements hereinbefore prescribed, all licensed and registered druggists selling alcohol by prescription shall keep a record thereof, which shall bear the true dates of the sales, the names of the persons to whom sales were made, the names of physicians or surgeons upon whose prescriptions each were made; such records shall be subject at all times to the inspection of the Solicitor of the district, the Sheriff and other peace officers of the county, the Mayor and police officers of the city or town in which said licensed and registered pharmacist's business is located, and all other persons, and each druggist making any such sales shall be required to report, under oath, to the Circuit Judge presiding at each term of Court of the county in which said druggist is engaged in business, a true statement of such facts, and also file on Monday morning of each week a list of the alcohol sold by him, to whom sold and by what physician prescribed, with the Chief of Police and the Mayor or Intendant of municipality, and post one copy in some public place in such municipality.

Crim. Code, '12, § 803; 1909, XXVI, 60.

(831) § 11. Manufacture and Sale of Wood, Denatured Ethyl and Methyl Alcohol.—Nothing in this Chapter, inclusive, shall prevent the sale of wood or denatured alcohol. Any person, firm or corporation may manufacture ethyl and methyl alcohol from sawdust, slabs or any other wood substance, or from molasses.

Crim. Code, '12, § 804; 1909, XXVI, 64; 1910, XXVI, 570; 1918, XXX, 780.

(832) § 12. Ethyl Alcohol Not to Be Sold in This State Unless Denatured.—Any person, firm or corporation engaged in the manufacture of ethyl alcohol, as provided in Section (831) shall not sell the same in this State unless denatured, but may ship the same undenatured to any place without the State for use in manufacturing purposes, and in the sciences and arts: *Provided,* No alcohol manufactured under the provisions of

Sections (831) to (836), inclusive, shall ever be used either within or without this State as a beverage or for medicinal purposes.

Crim. Code, '12, § 805; 1910, XXVI, 570.

(833) § 13. Shipment and Storage of Ethyl Alcohol in Warehouses.—Ethyl alcohol, manufactured under the provisions of Sections (831) to (836), inclusive, shall not be shipped to any point within this State unless denatured, and may be shipped to points without this State only in the manner hereinafter provided. Such alcohol may be carried from such warehouse as may be authorized under the provisions of said Sections, and delivered to a common carrier and forthwith shipped to its destination without this State. Such alcohol may also be transported to another bonded warehouse without this State, when such shipment is made under bond, as required by the United States revenue laws.

Crim. Code, '12, § 806; 1910, XXVI, 570.

(834) § 14. Record of Shipments of Alcohol.—A record shall be kept, which shall show the quantity of alcohol manufactured and the quantity transported or shipped, to whom and where shipped, and such record shall be subject to the inspection of any attorney representing the State of South Carolina.

Crim. Code, '12, § 807; 1910, XXVI, 570

(835) § 15. Storing of Alcohol in Warehouses.—All persons, firms and corporations manufacturing any alcohol under the provisions of Sections (831) to (836), inclusive, shall, while such alcohol remains in this State, store and keep the same in general United States bonded warehouses, or in other warehouse or warehouses, and file with the Secretary of State a declaration setting forth the exact location, description and dimension of each and every such warehouse used, and to be used for such purpose, and it shall be unlawful to store or keep any alcohol manufactured under the provisions of said Sections in any other place or places than such as may be described in the declaration above provided for.

Crim. Code, '12, § 808; 1910, XXVI, 570.

(836) § 16. Penalties and Remedies for Violation of Sections (831) to (836).—If any person, firm or corporation manufacturing alcohol under the provisions of Sections (831) to (836), inclusive, shall sell or consent to be used as a beverage, either within or without this State, any ethyl alcohol so manufactured, or shall violate the provisions of said Sections in any respect, they, or it, shall forfeit to the State of South Carolina all property within this State connected with and incident to the manufacture of such alcohol. It shall be the duty of the Attorney General and of Solicitors to institute an action in any Court of competent jurisdiction in any county in this State, which the Attorney General or Solicitor may select, for determining whether the provisions of said Sections have been violated, and whether the property has been thereby forfeited to the State: *Provided, further,* That any person, firm or corporation engaging in the manufacture of alcohol under the provisions of said Sections, shall enter into a bond to the State of South Carolina, in the sum of ten thousand

dollars, with surety, to be approved by the Governor, conditioned for the faithful observance and compliance with all the provisions of said Sections. And it shall be the duty of the Attorney General and the Circuit Solicitors, whenever any provision of said Sections is violated, to sue in any county in this State for the penalty of such bond for the benefit of the State: *Provided, further,* It shall be *prima facie* evidence of the violation of the provisions of said Sections if any ethyl alcohol, so manufactured and not denatured, shall be found within this State, and not in the custody of a United States revenue officer, or not in course of shipment to some point in another State: *Provided, further,* That a reasonable time shall be allowed for conveying the alcohol directly from a warehouse to a common interstate carrier.

Crim. Code, '12, § 809; 1910, XXVI, 570.

(837) § 17. Disposition of Forfeited Property.—Any and all property forfeited under the provisions of Sections (831) to (836), inclusive, shall be delivered to the Sinking Fund Commission.

Crim. Code, '12, § 810; 1910, XXVI, 570.

(838) § 18. Violators of Liquor Laws to Be Imprisoned at Hard Labor—Provisos.—Any person who violates any of the provisions of any law of this State prohibiting, relating to or regulating the sale of intoxicating liquors, shall be guilty of a misdemeanor and upon conviction thereof, shall be imprisoned at hard labor for not less than six months, nor more than two years, and for any subsequent offense, upon conviction, shall be imprisoned for a term of not less than a year nor more than five years: *Provided,* That any Circuit Judge may, in his discretion, suspend all of such imprisonment except thirty days for the first offense and sixty days for subsequent offenses upon such terms and conditions as he may see fit to impose, but in each and every case any person convicted of the violation of any of said laws shall be required to serve at least thirty days for the first offense and sixty days for any subsequent offense of the sentence imposed upon him: *Provided,* That the provisions of this Section shall not apply to cases pending on or to offenses committed prior to February 19, 1916.

Crim. Code, '12, § 811; 1909, XXVI, 64; 1916, XXIX, 704.

(839) § 19. License of Druggist to Be Revoked for Violation.—Any druggist or physician who violates in any way the provisions of Sections (820) to (830), inclusive, shall, in addition to the punishment herein provided, have their license revoked for a period of not more than one year for each offense.

Crim. Code, '12, § 812; 1909, XXVI, 64.

(840) § 20. Not to Affect Punishment Under Former Law.—Nothing in this Code shall have the effect of preventing the indictment, prosecution and conviction of any person who has been guilty of the violation of the criminal law relating to the dispensing or sales of intoxicating liquors, or punishment therefor, as provided by law existing either at, or

prior to, the time of the adoption of this Code, for offenses heretofore committed.

Crim. Code, '12, § 813; 1909, XXVI, 64.

(841) § 21. Liquors on Arrival in the State to Be Subject to Its Laws.—All fermented, distilled or other liquors, or liquids containing alcohol, transported into this State, or remaining herein for use, sale, consumption, storage, or other disposition, shall, upon introduction and arrival in this State, be subject to the operation and effect of this law to the same extent and in the same manner as though such liquors or liquids had been produced in this State.

Crim. Code, '12, § 814; Crim. Code, '02, § 588; 1901, XXIII, 706.

(842) § 22. Unlawful Soliciting Sales a Misdemeanor.—Any person who shall in this State offer for sale, or solicit the purchase of, any of the liquors or beverages mentioned in Sections (820) and (840), other than for personal use, whether for present or future delivery, shall be deemed guilty of a misdemeanor, and, upon conviction in a Court of competent jurisdiction, shall be punished by a fine of not less than one hundred dollars, or imprisonment for not less than three months.

Crim. Code, '12, § 815; 1909, XXI, 60.

(843) § 23. Soliciting Orders for Liquor a Misdemeanor.—Each and every person, whether acting for himself or as an agent for any person, firm or corporation, who shall conduct the business of liquor drummer, soliciting or receiving orders for interstate shipment within any county within this State, except as now authorized by law, of any spirituous, malt, vinous, fermented, brewed, whether lager or rice beer, or other liquors or beverages or any compound or mixture thereof which contains alcohol and is used as a beverage, shall be guilty of a misdemeanor, and, on conviction, fined in a sum not exceeding one thousand dollars or imprisoned not exceeding six months, or both fine and imprisonment, in the discretion of the Court.

Crim. Code, '12, § 816; 1909, XXVI, 93.

(844) § 24. Unlawful Sale, Etc., of Alcoholic Liquors a Common Nuisance.—The unlawful sale, barter, exchange, storage and keeping in possession in this State of any spirituous, malt, vinous, fermented, brewed (whether lager or rice beer), or other liquors and beverages, or any compound or mixture thereof which contains alcohol and is used as beverage, is hereby declared a common nuisance.

Crim. Code, '12, § 817; Crim. Code, '02, § 555; 1893, XXI, 430; 1894, XXI, 731; 1896, XXI, 123; 1897, XXII, 532; 1910, XXVI, 572.

(845) § 25. Resorts for Drinking Declared Nuisances.—All places where persons are permitted to resort for the purpose of drinking alcoholic liquors or beverages are hereby declared nuisances, and the keeper or manager of such places, upon conviction, shall be punished as provided in Section (838).

Crim. Code, '12, § 818; 1907, XXV, 473.

(846) § 26. **Proceedings Against Nuisances—Restraining Order—Contempt—Solicitor and Attorney General.**—Any person may go before any Magistrate in the county and swear out an arrest warrant on personal knowledge or on information and belief, charging said nuisance, giving the names of witnesses against the keeper or manager of such place, and his aids and assistants, if any, and such Magistrate shall direct such arrest warrant either to the Sheriff of the county or to any special Constable, commanding said defendant to be arrested and brought before him to be dealt with according to law, and shall issue a search warrant in which the premises in question shall be particularly described, commanding such Sheriff or Constable to thoroughly search the premises in question and to seize all alcoholic liquors found thereon, and dispose of them as provided in Section (851), and to seize all vessels, bar fixtures, screens, bottles, glasses and appurtenances apparently used or suitable for use in retaining liquors, to make a complete inventory thereof, and to deposit the same with the Sheriff. Under the arrest warrant the defendant shall be arrested and brought before such Magistrate, and the case shall be disposed of as in case of other crimes, except that when he commits or binds over the parties for trial to the next term of Court of General Sessions for the county, he shall make out every paper in the case in duplicate and file one with the Clerk of the Court for the county, and immediately transmit the other to the Solicitor of the Circuit, whereupon the said Solicitor shall at once apply to any Circuit Judge at chambers within that Circuit, or to the nearest Circuit Judge if there be none in that Circuit, for an order or injunction restraining the defendants, their servants or agents, from keeping, receiving, bartering, selling or giving away any alcoholic liquors until the further order of the Court, or perpetually after hearing after notice to the defendant. Such Circuit Judge is hereby authorized, empowered and required to grant the said restraining order or injunction, without requiring a bond or undertaking upon the hearing or receipt by him of said papers from the Court of the said Magistrate by the hands of the Solicitor, and any violation of said restraining order or injunction shall be deemed a contempt of Court and punished as such by said Judge or Court or any other Circuit Judge, as for the violation of an order of injunction. Liquors seized as hereinbefore provided, and the vessels containing them, shall not be taken from the custody of the officers in possession of the same by any writ of *replevin* or other process, except as provided in Section (851). No suit shall lie for damages alleged to arise by seizure and detention of liquors under this Chapter. Any person violating the terms of any restraining order granted in such proceedings shall be punished for contempt by a fine of not less than two hundred dollars nor more than one thousand dollars, and by imprisonment not less than ninety days nor more than one year. In contempt proceedings arising out of the violation of any injunction granted under the provisions of this Chapter, the Court, or, in vacation, any Judge thereof, shall have power to try summarily and punish the party or parties guilty as required by law. The affidavits upon which the attachment for contempt issues shall make a *prima facie* case for the State. At the hearing upon the charge for contempt, evidence may be oral or in the form of affidavits, or both. The defendant shall not

necessarily be discharged upon his denial of the fact stated in the moving papers. The Clerk of Court shall, upon the application of either party, issue subpoenaes for witnesses, and, except as above set forth, the practice in such contempt proceedings shall conform as nearly as may to the practice in the Court of Common Pleas. When any Solicitor neglects or refuses to perform any duty, or to take any steps required of him by any provisions of this Section, or by any of the provisions of this Chapter, the Attorney General, on his own motion, or by request of the Governor, shall, in person, or by his assistant, proceed to the locality and perform such neglected duty, and take such steps as are necessary in the place of such Solicitor, and at his discretion to cause a prosecution to be instituted, not only in the matter so neglected, but also a prosecution against the Solicitor for malfeasance or misfeasance in office, or for official misconduct, or for other charges justified by facts, and to pursue the prosecution to the extent of a conviction and dismissal from office of any such Solicitor. And in such event the Attorney General shall be, and is hereby authorized and empowered to appoint one or more additional assistants, who shall each have while actually employed the same compensation, to be paid from the litigation fund of the Attorney General. Any duty herein imposed upon a Solicitor may be performed with equal force and effect by the Attorney General or other person authorized by him to perform such duty.

Crim. Code, '12, § 819; Crim. Code, '02, § 578.

Injunction proceedings reported in Lyon *v.* New Charleston Hotel Co., 80 S. C. 130, 61 S. E. 207; Lyon *v.* Chicco, 82 S. C. 122, 63 S. E. 306; Lyon *v.* Union Social Club, 82 S. C. 142, 63 S. E. 545; Lyon *v.* City Club, 83 S. C. 514, 65 S. E. 730; Lyon *v.* Argyle Hotel Co., 80 S. C. 119, 61 S. E. 209; Lyon *v.* Carroll, 80 S. C. 117, 61 S. E. 209; Lyon v. Charleston Turnverein Society, 80 S. C. 116, 61 S. E. 209; Lyon *v.* German Rifle Club, 80 S. C. 126, 61 S. E. 208; Lyon *v.* Palmetto Brewing Co., 80 S. C. 114, 61 S. E. 209; Lyon *v.* Schiaderessi, 80 S. C. 115, 61 S. E. 210; Lyon *v.* Riddock, 78 S. C. 286, 58 S. E. 803; 80 S. C. 118, 61 S. E. 210.

The proceedings are on the equity side of the Court. State *v.* Weil, 83 S. C. 478, 65 S. E. 634, 26 L. R. A., N. S., 461n.

The provision that no suit lies against officer is without effect where the seizure was illegal. Smith *v.* Lafar, 67 S. C. 497, 46 S. E. 332.

(847) § 27. Persons Maintaining Club Rooms for Unlawful Use of Liquor Guilty of Misdemeanor.—Every person who shall, directly or indirectly, keep or maintain by himself, or by associating or combining with others, or who shall in any manner aid, assist or abet in keeping or maintaining any club room, or other place in which any alcoholic liquors or beverages are received or kept for unlawful use, barter or sale as a beverage, or for distribution or division among the members of any club or association by any means whatever, and every person who shall receive, barter, sell, assist or abet another in receiving, bartering or selling, any alcoholic liquors or beverages so received or kept, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for a term of not less than three months nor more than twelve months.

Crim. Code, '12, § 820; 1907, XXV, 473.

(848) § 28. Penalty for Handling Liquor in the Nighttime.—Any person handling contraband liquor in the nighttime, or delivering the same, shall be guilty of a misdemeanor, and, on conviction, shall be punished by imprisonment for not less than three months nor more than twelve months,

or by a fine of not less than one hundred dollars nor more than five hundred dollars.

Crim. Code, '12, § 822; 1907, XXV, 472.

(849) § 29. Transportation or Possession of Falsely Branded Packages.—The carriage, transportation, possession, removal, sale, delivery or acceptance of any of the said liquors or liquids in any package, cask, jug, box or other package, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks, packages or boxes containing the same, or the causing of such carriage, transportation, possession, removal, sale, delivery or acceptance, shall work the forfeiture of said liquors or liquids and casks or packages, and the person or persons so offending, knowingly, be subject to pay a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment for the term of not less than six months, nor more than one year, and the wrongful name, mark, address, stamp or style on such liquor when seized shall be considered evidence *prima facie* of guilt. The books and waybills of the common carrier may be examined to trace said liquor to the shipper, who shall be liable, upon conviction, in like penalty.

Crim. Code, '12, § 826; Crim. Code, '02, § 584; 1896, XXII, 127; 1897, XXII, 520; 1898, XXII, 805; 1901, XXIII, 706.

(850) § 30. Powers of Constables to Detain Suspicious Packages.—All Constables, Deputy Constables, Sheriffs, Magistrates or Municipal Policemen shall have the right, power and authority, and it shall be their duty, whenever they are informed or suspect that any such suspicious package in possession of a common carrier contains alcoholic liquors or liquids, to detain the same for examination for the term of twenty-four hours without any warrant or process whatever.

Crim. Code, '12, § 827; Crim. Code, '02, § 585; 1896, XXII, 127; 1897, XXII, 520; 1898, XXII, 805; 1901, XXIII, 706.

(851) § 31. Unlawful Liquors May Be Seized—Limitations on Actions Therefor.—All alcoholic liquors in possession of any person for unlawful use shall be seized without warrant, and if no action to recover same is begun within thirty days from such seizure, or if such action be begun and the judgment of the Court be adverse to the plaintiff, then such liquors shall be destroyed publicly by the Sheriff of the county.

Crim. Code, '12, § 828; 1907, XXV, 472.

(852) § 32. Possession of Illicit Liquor Prohibited—Debt for Void.—The possession of said illicit liquors is hereby prohibited and declared unlawful, and any obligation, note of indebtedness, contracted in their sale or transportation, is declared to be absolutely null and void, nor shall any action or suit for the recovery of the same be entertained in any Court in this State.

Crim. Code, '12, § 829; Crim. Code, '02, § 582; 1896, XXII, 127; 1897, XXII, 520; 1898, XXII, 805; 1901, XXIII, 705.

(853) § 33. How Search Warrants May Be Issued.—Upon affidavit, which may be on information and belief, to the effect that contraband liquor

is being unlawfully concealed, kept or stored in any place, a search warrant may be issued by any Magistrate of the county, empowering any officer or person who may be deputized, to enter the said place by day or night and to search the said premises for the purpose of seizing the said contraband liquors therein concealed, kept or stored, which said liquor, when so seized, shall be disposed of as hereinbefore provided for the disposition of unlawful liquors: *Provided,* That no dwelling house shall be searched in the nighttime.

Crim. Code, '12, § 830; 1907, XXV, 472.

(854) § 34. Persons Violating Law May Be Arrested Without Warrant.—Any person detected in the act of violating any of the provisions of this Chapter shall be liable to arrest without warrant: *Provided,* A warrant shall be procured within a reasonable time thereafter.

Crim. Code, '12, § 831; Crim. Code, '02, § 590; 1896, XXII, 127; 1897, XXII, 526; 1898, XXII, 805; 1901, XXIII, 705.

(855) § 35. Penalty for Rescuing Liquors From Officer.—Every person who dispossesses or rescues from a Constable or other officer, or attempts so to do, any alcoholic liquors or beverages taken or detained by such officer charged with the enforcement of this law shall, upon conviction, be punished by imprisonment not less than three months nor more than twelve months, or by a fine of not less than one hundred dollars nor more than five hundred dollars.

Crim. Code, '12, § 832; Crim. Code, '02, § 592; 1896, XXII, 127; 1897, XXII, 805; 1901, XXIII, 705.

(856) § 36. Interference With Officers Forbidden.—Any interference by any person with, obstruction or resistance of, or abusive language to, any officer or person in the discharge of the duties herein enjoined, or the use of abusive language by any such officer or person to any other person or persons, shall be deemed a misdemeanor, and the person or persons so offending shall, upon conviction, be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment for a term of not less than three months nor more than twelve months.

Crim. Code, '12, § 833; Crim. Code, '02, § 586; 1896, XXII, 127; 1897, XXII, 526; 1898, XXII, 805; 1901, XXIII, 705.

(857) § 37. Affidavits May Be on Information and Belief.—Whenever in this Chapter it is provided that process shall issue upon an affidavit based on information and belief, the affidavit shall contain a statement setting forth the sources of information, the facts and grounds of belief upon which the affiant bases his belief: *Provided,* That it shall not be necessary to set forth the sources of information, the facts and grounds of belief in the affidavit upon which a warrant of arrest shall issue, but it shall only be necessary in cases of search warrants.

Crim. Code, '12, § 836; Crim. Code, '02, § 599; 1896, XXII, 127; 1897, XXII, 526; 1898, XXII, 805; 1901, XXIII, 705.

(858) § 38. Punishment for Violations of Law in Cases Not Specifically Prescribed.—Upon conviction of any person for the violation of any provisions of this Chapter, where punishment is not provided for,

such person shall be fined, or imprisoned at hard labor, in the discretion of the Court: *Provided,* The fine shall not be less than one hundred dollars, and the imprisonment not less than three months.

Crim. Code, '12, § 839; 1907, XXV, 472.

State *v.* Tooley. 107 S. C. 408, 93 S. E. 132.

(859) § 39. Officers Neglecting Duty.—Any Constable, Deputy Constable, Sheriff or Magistrate. who shall neglect or refuse to perform the duties required by this Chapter, shall be subject to suspension by the Governor.

Crim. Code, '12, § 841; Crim. Code, '02, § 585.

(860) § 40. Receipt, Delivery, Storing, Keeping, Possession, Shipment or Transportation of Alcoholic Liquors in State Unlawful Except as Herein Provided.—It shall be unlawful for any person, firm, corporation or company to receive, store, keep or have in possession, or to ship, transport or convey any alcoholic liquors from any point without the State into this State, or from one point to another in this State, or to deliver the same to any person, firm, corporation or company within this State, except as hereinafter provided.

1917, XXX, 69.

State *v.* Hewitt, 109 S. C. 87, 95 S. E. 248.

(861) § 41. Who May Receive Liquor—Amount Not to Exceed One Quart a Month and to Be for Medicinal Purposes—Gallon of Wine for Religious Purposes.—Any natural person over the age of twenty-one years, except as hereinafter forbidden, may order and receive or transport in his personal baggage from any point without this State not exceeding one quart of alcoholic liquors containing not more than 50 per centum by volume of alcohol within any one calendar month, for medicinal purposes for his or her own use, or the use of his or her immediate family, and not more than one gallon of wine for religious purposes.

1917, XXX, 69.

(862) § 42. Deliveries in Nighttime Unlawful.—It shall be unlawful for any common carrier to deliver or any person to receive any package containing such liquors in the nighttime, which may be construed to mean from sunset to sunrise.

1917, XXX, 69.

(863) § 43. Record of Delivery to Be Kept—Form—To Be Preserved for Two Years.—It shall be the duty of the common carrier to keep a true and correct record of all alcoholic liquors transported and delivered by them to any person or persons, and to file with the Clerk of Court of the county in which such liquors are delivered, at least once a week, a verified statement, either printed, plainly written or typewritten, in duplicate, clearly stating what liquors were delivered by it since its last statement, the date on which the said alcoholic liquors were delivered, the name and postoffice address of the consignee, the place of delivery and the kind and amount of alcoholic liquors delivered, and the canceled

permits upon which said deliveries were made. Said report and permits shall be kept in condition for convenient reference for two years and then destroyed.
1917, XXX, 69.

(864) § 44. **Inspection of Records.**—Such common carrier shall permit any person to inspect and examine from time to time said records, kept as required in the preceding paragraph, as and when they make reasonable requests therefor, and any person shall have a right at any time to examine and inspect the reports filed by such common carrier in the office of the Clerk of Court or other officer, as herein provided.
1917, XXX, 69.

(865) § 45. **Officers May Inspect or Seize Shipments.**—Any peace officer shall have the right at any time to inspect all packages of alcoholic liquors in the possession of any common carrier in this State, and seize such as are being transported for unlawful sale or in violation of law.
1917, XXX, 69.

(866) § 46. **Packages to Be Marked—Exceptions.**—It shall be unlawful for any person or any common carrier, servant, agent or employee thereof, to knowingly ship or transport from without this State into this State, or from any one point or place in this State, any trunk, valise or package of any kind containing any alcoholic liquors, unless the true nature and character of the contents of such package is clearly and legibly marked on the outside thereof in letters at least one inch high. This provision shall not apply to one quart or less of such liquors in the baggage of a passenger and carried for his personal use or that of his immediate family, or for sacramental purposes.
1917, XXX, 69.

(867) § 47. **Where Offense Committed.**—In prosecution under Sections (860) to (885) for unlawful shipment or transportation of alcoholic liquors, the offense shall be held to be committed in any county of the State through which or into which said alcoholic liquors have been carried or transported, or to which they have been conveyed or delivered.
1917, XXX, 69.

(868) § 48. **Shipments to Be Received Only at Office of Carrier.**—No person shall receive any alcoholic liquors shipped to him within the State except at the office of the common carrier transporting the same nearest the residence of the consignee.
1917, XXX, 69.

(869) § 49. **Affidavit and Application for Importation—Issue of Permits—Fee—Record.**—Any person desiring to import any alcoholic liquors under this Chapter shall apply to the Judge of Probate of the county in which he resides and file with him an affidavit that he has not received any like permit during the same calendar month, and containing one of the following statements: (a) The amount and kind of

alcoholic liquors desired, not exceeding one quart; that the consignee is not a minor nor a student of any institution of learning, and if a woman, that she is the head of a family; the office of the common carrier from which delivery is desired, and that same is the nearest office of said common carrier to the residence of the applicant, and that the same is desired for medicinal purpose; or (b) Applicant is a minister, pastor, priest, rabbi or regularly constituted officer of a regularly organized religious congregation or church, and the name and location of the church or congregation for which the same is desired, and that the same is purchased in good faith to be used for sacramental or religious purposes, and no other, the amount and kind of alcoholic liquors, not exceeding one gallon of wine; or (c) That the applicant is the head of a family of the Hebrew faith, is not a minor, the amount and kind of alcoholic liquors desired, not exceeding one gallon of wine, and that the same is desired for religious purposes for use during Passover. This application shall only be filed during the month of March of any year.

Upon the receipt of such affidavit and the payment of a fee of ten cents the said Probate Judge shall issue a permit under his hand and official seal to receive the alcoholic liquors specified, which permit shall contain the name of the consignee, the amount and kind of alcoholic liquors and the office of the common carrier from which delivery is to be made. The said Probate Judge shall keep a record of all permits in a permanently bound book, in which the names of the applicants are entered alphabetically, and said permits shall be numbered consecutively and the number, the name of the consignee, the amount of alcoholic liquors, and the office of the delivering carrier and date of said permit shall be entered on said record. The said Probate Judge shall, out of the fees received, procure the permits and records, herein required to be kept, and shall keep the remainder as his compensation for the issuance of the said permit: *Provided,* That in no case shall the Probate Judge issue such permit unless he is satisfied of the truth of each statement contained in the affidavit herein required, nor shall such permit be issued by other than the Probate Judge personally, or by his regularly constituted Clerk, and within the precincts of his office. Any violation of the provision of this Chapter by the Probate Judge shall subject him to prosecution and penalties as for malfeasance or misfeasance in office: *Provided, further,* That the charge for issuing such permit and taking the affidavit required to obtain the same shall not exceed ten cents, and no charge in addition to this amount shall be made by the Judge of Probate or any Clerk or assistant for taking the affidavit required for such permit, nor shall any officer be designated by the Judge of Probate to take such affidavit.

1917, XXX, 69; 1918, XXX, 782.

Bradford *v.* Richardson, Probate Judge, 111 S. C. 205, 97 S. E. 58.

(870) § 50. No Delivery Without Permit.—No common carrier shall deliver any alcoholic liquors to any person until he has filed with the delivering carrier a permit issued as above provided and dated within two weeks of said delivery, which permit shall be immediately canceled by said common carrier.

1917, XXX, 69.

(871) § 51. **False Permits Constitute Forgery.**—The making, uttering or using of any false permit shall constitute the crime of forgery.
1917, XXX, 69.

(872) § 52. **Punishment for Illegal Transportation.**—Whoever shall knowingly transport or convey from one place to another, or from one person to another, any alcoholic liquors known by him to have been illegally sold or procured shall receive the same punishment as if convicted of the illegal sale of such alcoholic liquors. Charges of illegal transportation thereof may be joined in the same indictment.
1917, XXX, 69.

(873) § 53. **Where Liquor May Be Kept.**—It shall be unlawful for any intoxicating liquors to be stored or kept except for one's own personal use, or that of his immediate family, or for religious purposes, and then only at his usual place of residence, and only when the same shall have been procured in a lawful manner. The residence of a person shall be where his family resides, if he has a family residing in this State, and if not, at the place where he usually sleeps: *Provided, however,* That it shall be unlawful for any person to have in his possession, or to store or keep, for any purpose, any quantity of such liquors in any room in which, or in connection with which, there is maintained or conducted any place of amusement, club house, fraternity house, lodge or meeting place, cafe, rest room, store, office, shop or factory, and no such place shall be considered a residence within the meaning of this Section.
1917, XXX, 69.

(874) § 54. **Storage of Unusual Amount Evidence of Violation.**—Storage of any unusual amount or in an unusual way of any alcoholic liquors shall be evidence of a violation of this Chapter.
1917, XXX, 69.

(875) § 55. **Unlawful to Deliver Shipments to Certain Persons.**—It shall be unlawful for any common carrier to deliver to any minor, or any person not the consignee, or to any woman not the head of a family, or to any student of an institution of learning; or for any minor, or any person not the consignee or any woman not the head of a family, or any student of an institution of learning to receive any package containing alcoholic liquors.
1917, XXX. 69.

(876) § 56. **Where Record of Delivery to Be Kept—Inspection.**—The original record which common carriers are required to make and preserve under the terms of this Chapter shall be kept in the county in which the delivery of said alcoholic liquors is made, and if practicable, at the same office making delivery, and said common carrier shall produce such records for the use and benefit of any officer of said county or of the Courts of the State when requested to do so.
1917, XXX, 69.

(877) § 57. **Penalty for Violation.**—Any violation of the provisions of Sections (860) to (885), for which no other punishment is provided,

shall be punished by imprisonment for not more than one year, or a fine of not more than one thousand dollars, or both.

1917, XXX, 69.

(878) § 58. "Alcoholic Liquors" Defined.—The words "alcoholic liquors," as used herein, shall be considered to mean any liquor, beer, beverage or compound, whether distilled, fermented, or otherwise, by whatsoever name known or called, which will produce intoxication, or which contains in excess of one per centum of alcohol and is used as a beverage.

1917, XXX, 69.

(879) § 59. Sections (860) to (885) Not to Alter Existing Law as to Shipments for Certain Pharmaceutical, Medical and Scientific Purposes.—Sections (860) to (885) shall not affect any existing laws regulating the transportation for, or the receipt, storage, sale or use by druggists, hospitals and laboratories, or for scientific or mechanical purposes of alcohol or preparations containing alcohol, or any law regulating the transportation and storage of medicines or extracts, which shall remain as heretofore: *And provided,* That said Sections shall not apply to alcoholic liquors required and used by hospitals or sanatoria *bona fide* established and maintained for the treatment of patients addicted to the use of liquors, morphine, opium, cocaine, or other deleterious drugs, when the same are administered to patients actually in such hospitals or sanatoria for treatment, and when the same are administered as an essential part of the particular system or method of treatment, and exclusively by or under the direction of a duly licensed and registered physician of good moral character and standing: *And provided, further,* That shipments of such liquors be shipped in the name of such hospitals and sanatoria, and that the amount of such shipment shall not exceed five gallons in any one calendar month, and no permit shall be required therefor.

1917, XXX, 69.

(880) § 60. Provision for Manufacture of Ginger Ale and Like Beverages.—Any person, firm or corporation manufacturing in this State ginger ale or similar soft drinks in which there is an alcoholic ingredient not exceeding one-third of one per cent. may import alcohol into this State, or order and receive the same from another State, in quantities not exceeding ten gallons, for which no permit shall be required: *Provided,* That such person, firm or corporation first file with the Clerk of Court of the county in which said manufacturing plant is located a bond with an approved surety company as surety in the sum of one thousand ($1,000.00) dollars, to be forfeited to the State upon proof of misuse of such alcohol or disposition of it otherwise than contemplated in this Section for the manufacture of said product. The Solicitor shall bring action upon said bond upon information or belief, as he may see fit.

1917, XXX, 69.

(881) § 61. Manufacture and Sale of Ethyl or Methyl Alcohol Not Affected.—This law shall not affect any existing law regulating the manufacture, sale or disposition of ethyl or methyl alcohol from sawdust, slabs or other wood substance, which shall remain as heretofore.

1917, XXX, 69.

(882) § 62. **Manufacture of Wine Regulated.**—Any person shall have the right to manufacture not exceeding five gallons annually of wine from fruits, berries or grapes, and to keep the same for his own use and that of his immediate family, or for sacramental purposes.
1917, XXX, 69.

(883) § 63. **False Statements a Violation.**—The making of any false or untrue statement in any affidavit required herein, or the taking of such affidavit by any officer or person who knows same to be false, shall be deemed a violation of this Chapter.
1917, XXX, 69.

(884) § 65. **Punishment of Common Carriers for Violation Hereof.**—Should any agent or agents of any common carrier violate any of the provisions of Sections (860) to (885), the said common carrier may be indicted, and upon conviction, fined for such violation, and in addition, such agent or agents may be personally indicted, and upon conviction, fined or imprisoned, or both, for the same violation. Jurisdiction of said common carrier, if a corporation, shall be obtained by serving upon said corporation a certified copy of the indictment against it in the same way and upon the same persons as provided for the service of a summons in civil actions.
1917, XXX, 69.

(885) § 66. **Forfeiture of Vehicles Used in Illegal Transportation of Alcoholic Liquors.**—The use of any buggy, wagon, automobile, railroad car, bicycle, motorcycle, or other vehicle, or any boat, launch, or other vessel, or animal, used in the illegal transportation of alcoholic liquors as herein forbidden and if so used with the knowledge or consent of the owner thereof or of the agent or servant of such owner in charge of such vehicle or vessel, the same shall be forfeited to the county in which such violation of the prohibition law is committed, and same shall be confiscated by any peace officer by the physical seizure or taking possession of same by such peace officer, and he shall sell same at public auction, after due public advertisement for twenty-one days in a newspaper published and circulated in the county in which the offense is committed, to the highest bidder for cash, and shall immediately turn over the proceeds of the sale of same to the County Treasurer: *Provided,* That the owner of such vehicle or vessel may redeem same by paying into the County Treasury the actual marketable value of said vehicle or vessel, to be determined as to its value by the Supervisor and his Board.
1917, XXX, 69; 1919, XXXI, 233.

(886) § 67. **Sale, Barter or Exchange of Any Recipe, Formula or Distilling Apparatus for Making Intoxicating Beverages Prohibited—Penalty.**—Any person or persons, firm or corporation who shall sell or offer for sale any recipe, formula or distilling apparatus for the purpose of mixing, blending, manufacturing or distilling of any intoxicating beverage in the State of South Carolina shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned at hard labor for

not less than three months, nor more than three years, and pay a fine not less than one hundred dollars, nor more than one thousand dollars: *Provided,* That this Section shall not apply to recipes or formulas for the mixing, blending or manufacture of beverages containing less than two per cent. of alcohol, and shall not apply to flavoring extracts, essences and preparations for medical purposes.

1916, XXIX, 927.

(887) § 68. Unlawful to Advertise Alcoholic Liquor or Beverage or Solicit Orders Therefor—Removal of Advertisements From Public Places.—It is hereby made unlawful: (1) To advertise upon any street car, railroad car or other vehicle of transportation, or at any public place or resort, or upon any sign or billboard, or by circulars, posters, price lists, newspapers, periodicals or otherwise within this State alcoholic liquors and beverages, or any of them, or to advertise the manufacture, sale, keeping for sale or furnishing of any of them, or the person from whom, or the firm or corporation from which, or the place where, or the price at which, or the method by which the same or any of them may be obtained; (2) to circulate or publish any newspaper, periodical or other written or printed matter in which any advertisement in this Section specified shall appear, or to permit any sign or billboard, containing such advertisement to remain upon one's premises; or to circulate any price lists, order blanks or other matter for the purpose of inducing or securing orders for such alcoholic liquors, or any of them, no matter where located. Any Sheriff, Constable or police officer is authorized to remove any such advertisement from any sign, billboard, or other public place when it comes to his notice, and shall do so upon demand of any citizen.

2. Certain Advertisements Included in Inhibition of Section 1.—That any advertisement or notice containing the picture of a brewery, distillery, bottle, keg, barrel, or box, or other receptacle represented as containing any of said liquors or beverages, or designed to serve as an advertisement thereof, shall be within the inhibition of this Section.

3. Continuation of Violation May Be Enjoined—Who May Be Joined as Defendants.—That where and when any violation of any of the provisions of this Section shall have occurred, the continuation or repetition of the unlawful act or any of like kind by the offending person, firm or corporation, may be prevented by a writ of injunction issued upon a bill filed in the name of the State by the State Attorney General, or by any Solicitor, or by any citizen or citizens of the county in which the offense has been committed. All persons, whether agents, servants or officers of corporations, or agents or servants of individuals aiding or abetting in the commission of the offense, may be made parties defendant to such bills.

4. Penalties for Violation.—That any violation of any provision of this Section shall be punishable by a fine of not less than fifty nor more than five hundred dollars; to which may be added in the discretion of the Court or Judge trying the case, imprisonment in the county jail or at hard labor for the county for not more than six months.

1917, XXX, 167.

(888) § 69. **Sale, Etc., of Tonics, Etc., Containing Unnecessary Quantity of Alcohol Unlawful—Sale of Such Tonics Which Can Be Used as a Beverage Prohibited, Except as Herein Provided for Medicinal Use.**—1. It shall be unlawful and against the health and morals of this State for any person, firm or corporation to sell or offer for sale, receive, have in possession for unlawful purposes or purchase within this State any tonics, bitters, drugs, medicines, toilet articles or compounds containing alcohol if the alcohol contained in such compounds or preparations is in a greater quantity than is necessary for the purpose of extraction, solution or preservation of such preparation, and the sale, receiving, purchasing or having in possession of such tonics, bitters, drugs, medicines, toilet articles or compounds which can be used as a beverage is prohibited, unless it can be made to appear, as hereinafter provided, that the same was for medicinal use.

2. Purchaser to Sign Certificate.—Every dealer in any of the aforenamed preparations shall require each and every purchaser who buys any article mentioned in Subsection 1 to sign a certificate as follows: I have this day purchased from ———— the following preparation, to be used only as a medicine, toilet preparation or flavoring extract, and will not myself use or allow any of same to be used as a beverage.

3. Violation a Misdemeanor—Penalties.—Any person, firm or corporation violating any of the provisions of this Section shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine of not less than one hundred ($100.00) dollars or more than five hundred ($500.00) dollars, or suffer imprisonment for not less than three months or more than one year, in the discretion of the Court, for the first offense, and for any subsequent offenses shall suffer imprisonment for not less than one year or more than two years, in the discretion of the Court: *And provided, further,* It shall be the duty of the Board of Pharmaceutical Examiners to cancel the license of any person reported to said Board and found guilty by them: *Provided, further,* That any person, firm or corporation convicted under this Section shall be prohibited from employing a licensed druggist thereafter for a period of two years.

1919, XXXI, 263.

CHAPTER XXI.

Violations of the Insurance Laws.

(889) § 1. **Misdemeanor to Receive Premium for Insurance in Insolvent Company.**—Any director or officer of any insurance company or association, of whatever kind, who shall wilfully receive any premium or assessment on behalf of said company or association, knowing at the time of receipt of said premium or assessment said company or association to be insolvent according to the laws of its home State, without notice of the same to the party paying the premium or assessment, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, in the discretion of the Court. Or any agent, physician or other

person who shall insure or knowingly cause to be insured or reinstated in membership any infirm or unhealthy person, not at the time in insurable condition, with intent to defraud, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, in the discretion of the Court.

Crim. Code, '12, § 879; 1910, XXI, 553.

(890) § 2. Misdemeanor to Present False Claim or Make False Statement.—Any agent, collector, physician or other person who shall cause to be presented to any insurance company licensed to do business in this State a false claim for payment, knowing the same to be false, or any agent or collector who shall represent any such company or collect or do business without the authority of the company or secure cash advances by false statements, or shall fail to turn over when required, or satisfactorily account for all collections of such company, licensed to do business in this State, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, in the discretion of the Court.

Crim. Code, '12, § 880; 1910, XXI, 553.

(891) § 3. Persons Deemed Agents—Misdemeanor to Procure Premium by Misrepresentation.—A person who acts for another than himself in negotiating a contract of insurance by an insurance company or association, for the purpose of receiving remuneration therefor, shall be held to be the company's or association's agent, whatever conditions or stipulations may be contained in the policy contract. Any such person who knowingly procures by fraudulent representations, payments or any obligations for payment of a premium of insurance, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine or imprisonment, in the discretion of the Court.

Crim. Code, '12, § 881; 1910, XXI, 553.

(892) § 4. Foreign Insurance Companies Doing Business Without a License—Countersigning Policies for Unlicensed Companies.—Any foreign insurance company or association of any class whatsoever doing business in this State without a license so to do, shall be subject to a fine of five hundred dollars for each offense, to be recovered by suit brought by the Attorney General or a Circuit Solicitor in the name of the State. Any person countersigning certificates or policies or making entries or notices of insurance under open policies or other instruments of insurance, or acting for or representing an insurance company not licensed to do business in this State, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars or imprisoned, in the discretion of the Court. Any company violating any of the insurance laws of this State, for which no penalty is otherwise provided, shall be subject to a fine not to exceed five hundred dollars, to be recovered by suit brought by the Attorney General or a Circuit Solicitor, in the name of the State.

Crim. Code, '12, § 882; 1910, XXI, 553.

(893) § 5. Misdemeanor to Solicit for Association Not Duly Authorized to Do Business.—Any person who shall solicit membership for,

or in any manner assist in procuring membership in, any fraternal benefit association not authorized to do business in this State, or who shall solicit membership for, or in any manner assist in procuring membership in, any such association not authorized as herein provided to do business as herein defined in this State, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars or imprisonment not longer than thirty days.

Crim. Code, '12, § 885; 1910, XXVI, 561.

(894) § 6. Investigation as to Fires, Etc.—Neglect of Duty—Appeal to Insurance Commissioner.—When the Insurance Commissioner or his Deputy or the Chief of the Fire Department or Chief of Police or Intendant (where there is no Chief of Fire Department), or County Sheriff, shall find in any building or upon any premises combustible material or conditions dangerous to the safety of such building or premises, they shall order the same to be removed or remedied. And such order shall forthwith be complied with by the owner or occupant of said building or premises. Any one failing to comply with the orders of any of the above named officers shall be punished by a fine of not less than ten dollars nor more than fifty dollars for each day's neglect: *Provided, however,* That if said owner or occupant shall deem himself aggrieved by such order he may, within twenty-four hours, appeal to the Insurance Commissioner and the cause of the complaint shall at once be investigated by the direction of the latter, and unless by his authority the order of the Fire Chief or Chief of Police is revoked such order shall remain in full force.

Crim. Code, '12, § 888; 1904, XXIV, 474.

(895) § 7. Misdemeanor for Insurance Companies or Agents to Circulate False Information.—No life insurance company doing business in this State, and no officer, director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it, or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Violation of this Section by an agent or officer of an insurance company shall be a misdemeanor and punishable by a fine of five hundred dollars or imprisonment in the county jail for sixty (60) days, or by both such fine and imprisonment; and if a company violates or participates in the violation of this Section, such company shall have its certificate of authority to do business in this State suspended for a period of not exceeding six months for each offense.

Crim. Code, '12, § 891; 1908, XXV, 1110.

(896) § 8. False Statements of Claims.—Any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such fraternal benefit association for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath

required or authorized by Article III, Chapter XLVIII of the Civil Code, shall be guilty of perjury, and shall be proceeded against and punished as provided by the Statutes of this State in relation to the crime of perjury.

Crim. Code, '12, § 884; 1910, XXVI, 561.

(897) § 9. False Statement in Reference to Application to Fraternal Benefit Associations.—Any person, officer, member or examining physician of any franternal benefit association authorized to do business under Article III, Chapter XLVIII of the Civil Code, who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any association transacting business under Article III, Chapter XLVIII, of the Civil Code, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the Court.

Crim. Code, '12, § 883; 1910, XXVI, 561.

(898) § 10. Violation of Civil Code, as to Fraternal Benefit Associations.—Any fraternal benefit association or any officer, agent or employee thereof neglecting or refusing to comply with, or violating any of the provisions of Article III, Chapter XLVIII of the Civil Code, the penalty for which neglect, refusal or violation is not specified in three preceding Sections, shall be fined not exceeding one hundred dollars upon conviction thereof or may be imprisoned not more than thirty days.

Crim. Code, '12, § 886; 1910, XXVI, 561.

(899) § 11. Misdemeanor to Misrepresent Contracts.—No bond, investment, dividend, debenture, registry, guaranty, loan or fidelity, or other company required to be licensed by the Insurance Commissioner, and no officer or director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy or contract issued by it, or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title or any policy or contract, or class of policies or contracts misrepresenting the true nature thereof. Violation of this Section or of Article V, Chapter XLVIII of the Civil Code, by any agent or officer of a company, or by any person representing himself to be an agent or officer, shall be a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment for not less than thirty days and not more than six months; and if a company violates or participates in the violation of this Section or of Article V, Chapter XLVIII, of the Civil Code, such company shall have its certificate of authority to do business in this State suspended or revoked. No such company shall make or permit any distinction in favor of individuals between policyholders or contract holders of the same class, in the amount of the payment of premiums or rates charged for policies or contracts, or in the dividends or other benefits payable thereon, or in any

other of the terms and conditions of the contracts it makes. Nor shall any company or agent thereof make any contract or agreement as to such contract other than as plainly expressed in the policy issued thereon.

Crim. Code, '12, § 887; 1910, XXVI, 547.

(900) § 12. Obstructing the Insurance Commissioner.—Any one who violates the provisions of Article I, Chapter XLVIII of the Civil Code, or any one who interferes with the Insurance Commissioner in the performance of his lawful duties, or who prevents the same, or refuses to comply with or obey any order issued by him in accordance with law, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars, or imprisoned not more than thirty days: *Provided,* That nothing herein contained shall be construed to prevent such person as is here referred to testing the validity of the order or action of the Commissioner in a Court of competent jurisdiction.

Crim. Code, '12, § 889; 1909, XXVI, 11.

(901) § 13. No Distinction to Be Made Between Individuals by Life Insurance Companies—Rebates.—No insurance company doing business in this State shall make or permit any distinction in favor of individuals between insurants (the insured) of the same class and equal expectation of life in the amount of the payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes. Nor shall any such company, or agent thereof, make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon; nor shall any such company or any officer, agent, solicitor or representative thereof pay, allow or give or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate or premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the policy contract of insurance; nor give, sell or purchase, or offer to give, sell or purchase, as inducement to insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon, or anything of value whatever not specified in the policy. Every officer or agent of an insurance company doing business in this State, who shall violate any of the provisions of this Section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than one hundred ($100) dollars nor exceeding five hundred ($500) dollars, or imprisoned in the county jail for not less than thirty (30) days, nor more than ninety (90) days, or both, in the discretion of the Court, and shall pay the costs of the prosecution. It shall be the duty of the Insurance Commissioner, upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this Section to revoke the certificate of authority of the company or agent so offending.

Crim. Code, '12, § 892; 1908, XXV, 1110.

(902) § 14. Certain Inducements Which Must Not Be Offered to Procure Policy Holders.—No insurance company shall issue in this State, nor permit its agents, officers or employees to issue in this State, agency company stock or other stock or securities, or any special or advisory board or other contract of any kind, promising returns and profits as an inducement to insurance; and no life insurance company shall be authorized to do business in this State which issues, or permits its agents, officers or employees to issue, in the State of South Carolina or any other State or Territory, agency company stock, or other stock or securities, or any special advisory board or other contract of any kind promising returns and profits as an inducement to insurance; and no corporation or stock company, acting as agent of a life insurance company, nor any of its agents, officers or employees, shall be permitted to agree, sell, offer to sell or give, or offer to give directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds or agreement of any form or nature, promising returns and profits as an inducement to insurance or in connection therewith: *Provided,* That nothing herein contained shall impair or affect in any manner any such contracts issued or made as an inducement to insurance prior to the enactment hereof, or prevent the payment of the dividends or returns therein stipulated to be paid. It shall be the duty of the Insurance Commissioner, upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this Section, to revoke the certificate of authority of the company or agent so offending.

Crim. Code, '12, § 893; 1908, XXV, 1110.

(903) § 15. Law as to Insurance of Public Buildings—Failure to Comply With a Misdemeanor—Penalty.—Any officer, official or trustees, upon whom the duties provided in Sections (130) to (144), Civil Code, devolves, who fail or refuse to carry out the provisions thereof, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than twenty-five ($25.00) dollars, nor more than one hundred ($100.00) dollars, or imprisonment not less than ten nor more than thirty days.

1918, XXX, 881.

(904) § 16. Penalty for Unlawful Merger of Fraternal Benefit Association.—Any person violating the provisions of Article V, Chapter XLVIII, shall be guilty of a felony, and upon conviction, shall be liable to a fine of not more than five thousand dollars, or to imprisonment for not more than five years, or to both fine and imprisonment.

1919, XXXI, 83.

(905) § 17. False Statements to Fraternal, Etc., Association Punishable—Penalty—Soliciting Members for Unlicensed Association—Penalty for Violation of Other Provisions of Article.—Any person, officer, member or examining physician of any association authorized to do business under Article III, Chapter XLVIII, Civil Code, who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose

of obtaining money from or benefit in any association transacting business under said Article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or both in the discretion of the Court, and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath required or authorized by said Article, shall be guilty of perjury, and shall be proceeded against and punished as provided by the Statutes of this State in relation to the crime of perjury. Any person who shall solicit membership for, or in any manner assist in procuring membership in, any fraternal benefit association not licensed to do business in this State, or who shall solicit membership for, or in any manner assist in procuring membership in, any such association not authorized as herein provided to do business as herein defined in this State, shall be punished by a fine of not less than fifty nor more than two hundred dollars. Any association, or any officer, agent or employee thereof, neglecting or refusing to comply with, or violating any of the provisions of said Article, the penalty for which neglect, refusal or violation is not specified in this Section, shall be fined not exceeding two hundred dollars upon conviction thereof.

1919, XXXI, 171.

(906) § 18. Violation of Article as to Mutual Insurance Companies a Misdemeanor—Penalty.—Any person or corporation violating the provisions of Article IV, Chapter XLVIII, Civil Code, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and the Insurance Commissioner shall have power to revoke the license of any such person or corporation.

1920, XXXI, 910.

CHAPTER XXII.

Violations of the Laws Concerning Sailors, Immigrants, Etc.

(907) § 1. Offenders Against Laws as to Immigrants and Seamen Guilty of Misdemeanor—Punishment.—Whoever shall offend against any or either of the provisions contained in Chapter LIX of the Civil Code, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by imprisonment for a term not exceeding one year and not less than thirty days, or by a fine not exceeding two hundred and fifty dollars and not less than one hundred dollars, or by both such fine and imprisonment.

Crim. Code, '12, § 897; Crim. Code, '02, § 611; G. S. 1648; R. S. 493; 1866, XVIII, 472.

(908) § 2. Harboring Mariners Over One Hour—Penalty—Discharged Mariners Excepted.—It shall not be lawful for any tavern keeper, punch house keeper or victualler, within this State, to harbor, entertain, or employ any seaman or mariner, exceeding one hour in four and twenty, without an order or direction in writing for so doing under the hand of the master or commander of the ship or vessel to which such seaman or mariner shall belong, under pain of forfeiting the sum of ten dollars for every such offense, to be recovered by indictment in any Court of competent jurisdiction, and applied one-half to the informer and the other half for the use of the State: *Provided always, nevertheless,* That nothing herein contained shall extend, or be construed to extend, to such seaman or mariner as shall be legally discharged from any ship or vessel.

Crim. Code, '12, § 898; Crim. Code, '02, § 612; G. S. 1650; R. S. 494; 1751, III, 735.

(909) § 3. Harboring Deserting Seamen and Enticing Them to Desert.—Any person who shall be convicted of harboring deserting seamen, or of inveigling or procuring them to desert any service for which they have engaged, or disregard any article into which they have entered, shall be held guilty of a misdemeanor, and, upon trial and conviction, shall be punished by fine and imprisonment, at the discretion of the Judge, not to exceed three hundred dollars fine and three months imprisonment; and, upon a second conviction, the person so offending, if the keeper of a public or lodging house for seamen, in addition to the penalty before provided, shall forfeit his or her license.

Crim. Code, '12, § 899; Crim. Code, '02, § 613; G. S. 1651; R. S. 495; 1695, II, 119; 1836, VI, 557.

(910) § 4. Magistrate May Order Search for Deserting Seamen.—In case any such seaman, or any boy apprenticed on board any ship or vessel, shall be harbored, secreted, or detained, it shall be lawful for any Magistrate, upon complaint, on oath, made by the master of the said ship, or on his behalf, to inquire into the matter, and, if he shall see fit, by warrant under his hand and seal, to cause search to be made into any place wherein the said seaman or apprentice may be harbored or secreted, and to cause such seaman or apprentice to be restored to the master of said ship.

Crim. Code, '12, § 900; Crim. Code, '02, § 614; G. S. 1652; R. S. 495; 1695, II, 119; 1836, VI, 557.

(911) § 5. Last Two Sections Extend to All Shipping Agreements.—The provisions of the two preceding Sections shall extend to every agreement to proceed or continue on a voyage made in this State or elsewhere, by a seaman, and whether in contemplation of a voyage to be commenced in the State or elsewhere: *Provided,* That the said agreement, at the time when any such seaman may be harbored or secreted contrary to the provisions of the said Sections, shall not have been fully executed and determined, but shall be of force and binding on such seaman, according to the laws of this State, or of the country where the same was entered into, or to which the ship or vessel in which such voyage was to be made may belong.

Crim. Code, '12, § 901; Crim. Code, '02, § 615; G. S. 1653; R. S. 497; 1837, VI, 376.

(912) § 6. **Articles of Ship Admissible in Evidence.**—On the prosecution or trial of any indictment under the provisions of this Chapter, a copy of the articles of the ship or vessel, authenticated by the affidavit of the captain, sworn to before any Notary Public or Magistrate of this State, shall be admissible in evidence, and shall be sufficient to establish the fact that any seaman whose name appears subscribed thereto has signed the agreement contained in such articles, until the contrary be made to appear by proof.

Crim. Code, '12, § 902; Crim. Code, '02, § 616; G. S. 1056; R. S. 498; 1837, VI, 577; 1850, XIII, 171

(913) § 7. **A Misdemeanor to Impress Seamen.**—Any attempt by fraud or force to ship, against his will, any person as a seaman on board any vessel in any port in this State is hereby declared a misdemeanor, to be punished by fine and imprisonment, at the discretion of the Court.

Crim. Code, '12, § 903; Crim. Code, '02, § 617; G. S. 1657; R. S. 499; 1855, XII, 402.

(914) § 8. **Evidence of Masters of Vessels Taken De Bene Esse.**—When any prosecution shall be commenced against any person under the provisions of this Chapter, providing for the punishment of harboring seamen who have deserted, and it shall appear to the Magistrate before whom the prosecution was commenced that the testimony of any master of a vessel or other transient person will be important on such trial, such Magistrate shall have authority, after five days notice to the party accused, to summon such witness before some Judge of the Court of General Sessions, or the Recorder of the City Court of Charleston, to appear and give evidence in the said matter, when such witness shall be examined, with the right to the party accused to examine or cross-examine such witness, as in trials in open Court; and the Judge or Recorder shall certify and seal up such evidence, to be used on the trial of the cause, in the same manner as if the same had been given orally on such trial: *Provided,* That such testimony shall in no case be used unless it shall appear, by the affidavit of the Magistrate before whom prosecution shall have been commenced, that such witness is not at the time of such trial within the jurisdiction of the State.

Crim. Code, '12, § 904; Crim. Code, '02, § 618; G. S. 1658; R. S. 500; 1852, XII, 172; 1855, XII, 402.

(915) § 9. **Masters Lodging Seamen in Jail for Desertion to Give Bond.**—All masters of vessels, and others, lodging seamen in the jails of this State, for desertion, shall, previously thereto, give bond, with security, to the Sheriff of the County, to be by him approved, in the sum of five hundred dollars, for every seaman so lodged in any jail in this State, with a condition that he or they shall be bound to take away the said seaman or seamen from the jail, and pay the expenses thereof.

Crim. Code, '12, § 905; Crim. Code, '02, § 619; G. S. 1659; R. S. 501; 1808, V, 574.

(916) § 10. **Procurers of Seamen Not to Board Vessels Without Permission of Master.**—It shall not be lawful for any broker, shipping master, or other person engaged in the business of procuring seamen for ves-

sels, or furnishing them with such seamen, or making contracts for their services, to enter or attempt to go on board of any vessel lying at any port in any waters within the jurisdiction of this State, except as herein provided, without having previously obtained the permission of the master or other person having the care, custody, and control of such vessel; and any such person so entering any vessel as aforesaid, without such permission, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by fine and imprisonment, at the discretion of the Judge who tries the case, not to exceed three hundred dollars and three months imprisonment.

Crim. Code, '12, § 906; Crim. Code, '02, § 620; G. S. 1660; R. S. 502; 1852, XII, 171.

(917) § 11. Master May Arrest Offenders.—It shall be lawful for the master or other person having the command of the said vessel, or the care, custody, and control of the same, to seize and arrest all persons while so offending, and to take them before any Magistrate, to be committed or bound over to appear as in other cases of misdemeanor.

Crim. Code, '12, § 907; Crim. Code, '02, § 621; G. S. 1661; R. S. 503; 1852, XII, 171.

(918) § 12. Burden of Proof.—Upon the trial of any person indicted under the two foregoing Sections of this Chapter, in case it shall be proved that any such person shall have entered or attempted to go on board any vessel within the jurisdiction of this State, it shall be obligatory upon the person accused to prove that he had previously received the required permission; and in default of such proof, such person shall be presumed to have entered without such permission, and be found guilty accordingly.

Crim. Code, '12, § 908; Crim. Code, '02, § 622; G. S. 1662; R. S. 504; 1852, XII, 171.

CHAPTER XXIII.

Felonies; Accessories; Aiders and Abettors.

(919) § 1. Persons Accessory Before Fact Punished as Principal.—Whoever aids in the commission of a felony, or is accessory thereto before the fact, by counselling, hiring, or otherwise procuring such felony to be committed, shall be punished in the manner prescribed for the punishment of the principal felon.

Crim. Code, '12, § 919; Crim. Code, '02, § 634; G. S. 2610; R. S. 521. See 4 and 5 P. and M., c. 4; 1714, II, 484.

In treason and misdemeanors there are no accessories; all participating are principals. Whittaker *v.* English, 1 Bay 15; State *v.* Lymburn, 1 Brev. 397; State *v.* Westfield, 1 Bail 132.

A person cannot be convicted as accessory to crime of arson for procuring another to burn his own dwelling. State *v.* Sarvis, 45 S. C. 668, 24 S. E. 54.

Whatsoever will make one an accessory before the fact in felony will make him a principal in treason, petit larceny and misdemeanors. State *v.* Lymburn, 1 Brev. 397; State v. Westfield, 1 Bail. 132.

There can be no accessory before the fact in *manslaughter*. State *v.* Putnam, 18 S. C. 175. But see State *v.* Sims, 2 Bail. 29, and State *v.* Crank, 2 Bail. 66.

There may be accessories after the fact. State *v.* Burbage, 51 S. C. 284, 28 S. E. 937.

All persons present and aiding in the commission of a felony are principals, and there is no such distinction as principals of the first and second degrees. State *v.* Fley, 2 Brev. 338; State v. Posey, 4 Strob. 138; State *v.* Putnam, 18 S. C. 175.

INDICTMENT—

Against an accessory before the fact need not allege the conviction or execution of the principal. State *v.* Sims, 2 Bail. 29; State *v.* Crank, 2 Bail. 66; State *v.* Posey, 4 Strob. 103.

Sufficient if it allege that the murder was committed by a person unknown, and the prisoner was an accessory before the fact. State *v.* Green, 4 Strob. 138.

Against three persons for murder, alleging that one of them did the act, and the other two were present aiding, is good. State *v.* Putnam, 18 S. C. 175.

(920) § 2. Accessories Before Fact—When and How Tried.—Whoever counsels, hires, or otherwise procures a felony to be committed, may be indicted and convicted as an accessory before the fact, either with the principal felon or after his conviction, or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been convicted, or is or is not amenable to justice, and, in the last mentioned case, may be punished in the same manner as if convicted of being an accessory before the fact.

Crim. Code '12, § 920; Crim. Code, '02, § 635; G. S. 2611; R. S. 522. See 4 and 5 P. and M., c. 4; 1712, II, 484.

Applies only to accessories before the fact. State *v.* Burbage, 51 S. C. 284, 28 S. E. 937.
The record of the conviction of the principal, if had, must be produced, unless he and accessory are tried together. State *v.* Crank, 2 Bail. 66.
Testimony of accomplice is altogether for the jury, and they may act upon it without any confirmation of his statement. State *v.* Brown, 3 Strob. 508.

TITLE II.

PRISONS AND IMPRISONMENT.

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CHAPTER XXIV.

Jails and Prisoners.

(921) § 1. Sheriff to Have Custody of Jail, Etc.—The Sheriff shall have custody of the jail in his county, and if he appoint a jailer to keep it, the Sheriff shall be liable for him, and the Sheriff, or jailer, shall receive and safely keep in prison any person delivered or committed to either of them, according to law.

Crim Code, '12, § 923; Crim. Code, '02, § 638; G. S. 2690; R. S. 525; 1839, XI, 48.

(922) § 2. Industrial Communities May Provide Prison.—The president or treasurer, or other executive officer, having the management of any industrial corporation, located in any industrial community, in any county in this State, may build or provide a prison or building, at some convenient place, in said industrial community, in which arrested persons, charged with violation of the law, may be confined until such arrested persons can conveniently be carried before a Magistrate.

1910, XXVI, 765.

What Persons May Be Confined.—The police officer, or Deputy Sheriff, in industrial communities shall have the power to confine in such prison or building, as the president or treasurer, or other executive officer having the management of any industrial corporation, may provide in industrial communities, any person or persons who may be arrested charged with violation of law until such arrested person or persons can be conveniently carried before a Magistrate: *Provided, however,* That such police officer or Deputy Sheriff shall not detain any arrested person in

said prison longer than eighteen hours, except persons arrested on Saturdays, and then not over forty-two hours: *Provided, further*, That such police officer or Deputy Sheriff shall provide water and food, and shall also furnish such arrested person or persons, with sufficient bedding or clothing to make them comfortable in cold weather.

Crim. Code, '12, § 924; 1910, XXVI, 765.

(923) § 3. Sheriff to Appoint Jailer—Jailer to Live at Jail.—Every Sheriff in this State, who does not live in the jail, shall employ a proper and discreet person as jailer, who shall live within the same, and who is hereby prohibited from using the house for any other purpose than that for which it was designated by law.

Crim. Code, '12, § 925; Crim. Code, '02, § 639; G. S. 2691; R. S. 526; 1812, V, 672; 1839, XI, 48.

(924) § 4. Mode of Appointment of Jailer.—The Sheriff shall appoint such jailer in writing, a copy of which appointment shall be deposited in the office of the Clerk of the Circuit Court of the county wherein such jailer is appointed.

Crim. Code, '12, § 926; Crim. Code, 02, § 640; G. S. 2692; R. S. 527; 1812, V, 672; 1839, XI, 48.

Where Sheriff collects salary for jailer from the County, he cannot refuse to pay it over to the *de facto* jailer acting for him on the ground that his appointment was not in writing. McLemore *v.* Lancaster, 57 S. C. 384, 35 S. E. 743.

(925) § 5. Prisoners Committed by United States to be Kept in Custody.—The Sheriffs or jailers, in the several counties of this State, shall keep in safe custody all such prisoners as may be committed to them under the authority of the United States, until such prisoners are discharged by due course of law of the United States, under the like penalties as in case of prisoners committed under the authority of this State, and upon the terms of the resolution of the Congress of the United States at their session begun and holden on the fourth day of March, Anno Domini one thousand seven hundred and eighty-nine.

Crim. Code, '12, § 927; Crim. Code, '02, § 641; G. S. 2693; R. S. 528; 1790, VII, 257; 1800, V, 379; 1839, XI, 47.

(926) § 6. Felons and Debtors to Be Lodged Apart.—Sheriff or jailer shall keep prisoners for debt, in cases of fraud, in separate apartments of the jail; and the officer herein offending shall be liable to an action of the party grieved, and also to an indictment, and, on conviction, shall be punished as for a misdemeanor.

Crim. Code, '12, § 928; Crim. Code, '02, § 642; G. S. 2694; R. S. 529; 1839, XI, 47.

(927) § 7. Sheriffs to Keep Prisoners Committed by Coroner.—All Sheriffs and jailers are required to receive, and keep securely, all persons committed by the Coroner.

Crim. Code, '12, § 929; Crim. Code, '02, § 643; G. S. 2695; R. S. 530; 1839, XI, 76.

(928) § 8. To Set Apart Room for Coroner's Prisoners.—The Sheriff of each county shall set apart in the jail a room for the confinement of

such persons as may be exclusively in the custody of the Coroner, of which the Coroner shall have exclusive control.

Crim. Code, '12, § 930; Crim. Code, '02, § 644; G. S. 2696; R. S. 531; 1825; VI, 262; 1839, XI, 78.

(929) § 9. Paupers, Lunatics, Etc., Not Imprisoned, but Sent to State Hospital for Insane.—No pauper, lunatic, idiot, or epileptic, shall hereafter be confined for safekeeping in any jail; and if any such person shall be imprisoned, under and by virtue of any legal process, it shall be the duty of the Sheriff, in whose custody he may be, to obtain his discharge as speedily as possible, and send him forthwith to the State Hospital for the Insane, according to law, at the expense of the county within whose limits he shall have gained a settlement.

Crim. Code, '12, § 931; Crim. Code, '02, § 645; G. S. 2696; R. S. 532; 1839, XI, 51.

(930) § 10. Sheriff to Return Names of Prisoners to Court.—Every Sheriff shall make a return to every Court of General Sessions of his county on the first day of the term, of the name of every prisoner, and the time and cause of his or her confinement, whether civil or criminal.

Crim. Code, '12, § 932; Crim. Code, '02, § 646; G. S. 2698; R. S. 533; 3 H. 7, c. 3; 1712, II, 453; 1839, XI, 52.

(931) § 11. Jailer to Report Lunatics.—It shall be the duty of the jailers of the several counties of this State, at the sitting of each Court of Sessions, to report to the Presiding Judge the names of the persons confined in jail, who are lunatics, idiots, or epileptics, with the cause of their detention.

Crim. Code, '12, § 933; Crim. Code, '02, § 647; G. S. 2699; R. S. 534; 1829, VI, 382; 1839, XI, 48.

(932) § 12. No Discrimination in Treatment of Prisoners—Penalty.—It shall be unlawful for Sheriffs or jailers to make any discrimination in the treatment of prisoners placed in their custody.

Every violation of this Section shall be a misdemeanor, and, upon conviction thereof, the party convicted shall be fined not less than twenty-five dollars, and imprisoned for not less than one month nor more than twelve months.

Crim. Code, '12, § 934; Crim. Code, '02, § 648; G. S. 2700; R. S. 535; 1868, XIV, 107.

(933) § 13. Removal of Prisoners on Destruction of Jail.—In all cases where any person shall be apprehended or in confinement according to law, in any county in this State, wherein the jail may be destroyed by fire or other accident, he shall be committed to the jail nearest the one destroyed, for safekeeping; and the several jailers in this State, keepers of the jails nearest to those jails that may be destroyed as aforesaid, are authorized and required to receive and safely keep such person.

Crim. Code, '12, § 935; Crim. Code, '02, § 649; G. S. 2701; R. S. 536; 1812, V, 672; 1839, XI, 47.

(934) § 14. Sheriff May Impress a Guard, and Call Out Posse Comitatus—Penalty for Refusing to Assist.—When any person accused of a capital offense shall be in custody, and the Sheriff, acting by himself or

his regular deputy, shall have cause to suspect that such person may be unlawfully taken from his custody, or will probably effect his escape, he may impress a sufficient guard for securing and keeping safely such prisoner, so long as it may be his duty to keep said prisoner in jail, or in his custody. And the Sheriff by himself or his regular deputy, shall have power to call out the *posse comitatus* to his assistance, whenever he is resisted, or has reasonable grounds to suspect and believe that such assistance will be necessary in the service or execution of process in any criminal case; and any person refusing to act as such guard, or to assist as one of the *posse comitatus* in the service or execution of such process, when required by the Sheriff, shall be liable to be indicted therefor, and upon conviction, shall be fined and imprisoned, at the discretion of the Court.

Crim. Code, '12, § 936; Crim. Code, '02, § 650; G. S. 2702; R. S. 537; 1839, XI, 52.

(935) § 15. Sheriff to Report Condition of Jail, Etc.—Each Sheriff shall, annually, report to the County Commissioners the actual condition of the jail, the repairs which may be wanting, and their probable cost.

Crim. Code, '12, § 937; Crim. Code, '02, § 651; G. S. 2703; R. S. 538; 1839, XI, 48.

(936) § 16. County to Furnish Blankets and Bedding for Prisoners.—It shall be the duty of the County Commissioners in this State to furnish, at all times, blankets and such other bedding as shall be necessary for prisoners confined in jail in their respective counties; and prisoners confined on a criminal charge shall be provided with at least two blankets in the winter season.

Crim. Code, '12, § 938; Crim. Code, '02, § 652; G. S. 2704; R. S. 539; 1842, XI, 226; 1861, XII, 908; 1869, XIV, 274.

(937) § 17. County Commissioners May Make Alterations in Courthouse or Jail.—The several Boards of County Commissioners are authorized and required to make any alterations and additions deemed advisable, or which may become necessary, to any court house or jail now erected, or hereafter to be built, in their several counties.

Crim. Code, '12, § 939; Crim. Code, '02, § 653; G. S. 2705; R. S. 540; 1841, XI, 156.

(938) § 18. Physician for Charleston County Jail—Appointment, Term and Compensation—Other Physicians' Accounts Disallowed.—The Governor of this State, for the time being, is authorized and empowered, each year, to appoint a physician for the prisoners confined in the jail in Charleston County; his attendance to commence on the 10th day of January, and to continue for one year, and until another appointment shall be made as aforesaid.

He shall receive for such service, including medicine and all other charges, the sum of one thousand dollars per annum, to be paid out of the funds of said county, and the account of no other physician, surgeon, or apothecary, for attendance, operations, or medicines, on the said prisoners, shall be allowed or paid.

Crim. Code, '12, § 940; Crim. Code, '02, § 654; G. S. 2706; R. S. 541; 1820, VI, 143; 1879, XVII, 18.

(939) § 19. Buildings and Fences Not to Be Erected on Jail or Court House Lots—Exceptions.—If any person shall erect, or cause to be erected any dwelling house, outhouse or other building, or shall erect, or cause to be erected, any kind of fence, wall, or paling of any kind, on any public lot or square, whereon the jails and court houses in the several counties are erected, or who may hereafter hold, occupy, or use, any house, outhouse, or other building erected on such square or lot such person shall, for every such offense, upon being thereof legally convicted by indictment, be fined in a sum not less than one hundred dollars nor more than one thousand dollars: *Provided, nevertheless,* That the jailers of the respective counties, who reside in the jails, shall not be subject to such penalty for erecting or using such buildings or fences for their private accommodation: *Provided, further,* That in the County of Richland the County Board of Commissioners be, and they hereby are, authorized and allowed to enter into a contract with the city of Columbia, whereby the said city shall be allowed at its own cost to erect a suitable jail, or jails, upon the jail lot of said county, upon such terms and conditions as to the said Board of County Commissioners shall seem fit and proper.

Crim. Code, '12, § 941; 1911, XXVII, 45.

(940) § 20. County Board of Commissioners May Purchase Bloodhounds, Etc.—It shall be the duty of the County Boards of Commissioners of the several counties in this State, when in their judgment it is necessary, to require the Sheriff to purchase a pair of bloodhounds or other serviceable dogs, to be kept at the Court House, and used as he may deem expedient, for the tracking and arrest of escaped convicts and other fugitive lawbreakers.

Appropriations for Bloodhounds.—The County Board of Commissioners of each county are hereby authorized to appropriate the sum of one hundred dollars, if so much be necessary, for the purchase of said bloodhounds or other serviceable dogs.

Crim. Code, '12, § 945; Crim. Code, '02, § 659; 1897, XXII, 427.

(941) § 21. Houses of Correction for Female Convicts.—The County Board of Commissioners of the several counties in this State may provide and maintain, in connection with the poor farm, a suitable house of correction to which female convicts may be sentenced, except convicts for capital offenses, wherein such convicts shall be employed in useful occupations.

Crim. Code, '12, § 967; 1911, XXVII, 146.

(942) § 22. Sheriff May Employ Detective.—Whenever the Sheriff of Marlboro County shall deem it necessary for the proper enforcement of law within said county, he may, with the consent of the County Supervisor, employ a detective who shall act under his directions: *Provided,* That before any such detective can be employed, the County Supervisor and Sheriff shall agree upon his terms of service and compensation.

Crim. Code, '12, § 978; 1910, XXVI, 725

CHAPTER XXV.

State Penitentiary.

(943) § 1. Who to Be Confined in Penitentiary.—The Penitentiary at Columbia, in the County of Richland, shall be the general Penitentiary and prison of the State, for the reformation as well as the punishment of all offenders, in which shall be securely confined, employed, and governed, in the manner hereinafter directed, all offenders who shall have been convicted and sentenced according to law to the punishment of solitary imprisonment or confinement therein at hard labor.

Crim. Code, '12, § 947; Crim. Code, '02, § 661; G. S. 2710; R. S. 546; 1868, XIV, 92.

Persons convicted of assault and battery not to be sentenced to confinement in Penitentiary. State *v.* Hord, 8 S. C. 84. But if so sentenced, remedy is by appeal. *Ex porte* Bond, 9 S. C. 80. Service of sentence commences on entry into Penitentiary. State *v.* Duckett, 15 S. C. 213.

(944) § 2. Board of Directors Elected by General Assembly—Vacancies—How Filled.—The General Assembly shall elect five suitable citizens of this State, who shall constitute a Board of Directors of the State Penitentiary, with a term of office of two years, of which the Governor of the State shall be *ex officio* a member. In case of the death or resignation of member of said Board, the Governor is authorized to fill said vacancy during the recess of the General Assembly.

The Board of Directors shall have power and their duty shall be:

1. Have General Supervision, Etc.—To have a general supervision of the Penitentiary, its inmates, property, etc., and to meet at least once in every month, and oftener if necessary, upon the call of the Governor.

2. Examine Into Discipline.—To examine and inquire into all matters connected with the government, discipline and police of the prison, the punishment and employment of the convicts therein confined, the money, concerns and contracts for work, and the purchases and sales of articles provided for the prison, or sold on account thereof, and the progress of the work.

3. Require Reports.—To require reports from the Superintendent and Keeper, or other officers of the prison, in relation to any or all the preceding matters.

4. Make Regulations.—To make such general regulations for the government and discipline of the prison, or modify such regulations as may have been made by the Superintendent, as they may deem expedient, and from time to time to alter and amend the same; and in making such regulations, it shall be their duty to adopt such as, in their judgment, while consistent with the discipline of the prison, shall best conduce to the reformation of the convicts.

5. Investigations.—To inquire into any improper conduct which may be alleged to have been committed by the Superintendent, Keeper, or other officer of the prison, and for that purpose, to issue subpœnas to compel the attendance of witnesses, and the production before them of books, writing, and papers, in the same manner, with like effect, and subject to the same penalties for disobedience, as in case of trial before Magistrates; and to ex-

amine, under oath, any person or persons who may be brought before them as witnesses.

6. Keep Minutes.—To keep regular minutes of their meetings and proceedings at the prison, which minutes shall be signed by them and entered in a book which shall be kept for that purpose at the prison.

7. Prescribe Food.—To prescribe the articles of food and quantities of each kind that shall be inserted in each contract for the supply of provisions to the prison.

8. Suspend or Remove Superintendent.—To suspend or remove, with the consent of the Governor, the Superintendent for oppression and misconduct in office; such suspension or removal shall not take place without giving the Superintendent an opportunity to be heard in his defense.

9. Make Annual Report to Governor.—To make an annual report to the Governor, on or before the first day of November in each year, of the state and condition of the prison, the convicts confined therein, of the money expended and received, and generally of all the proceedings during the last year, to be laid before the General Assembly: *Provided,* No one shall be eligible to the office of Director who has any interest in the hiring of convict labor, or who has any direct personal pecuniary interest in any work upon which convict labor is employed; and should any Director at any time during his term of office become disqualified as above, his office shall become *ipso facto* vacant, and it shall be the duty of the Governor to fill the same by appointment, and the Director so appointed shall remain in office till the adjournment of the next session of the General Assembly, and until his successor shall have been elected and qualified.

10. Report as to Sentences, Condition, Etc., of Convicts to Governor For Executive Clemency.—To inquire and examine into the sentence under which the convicts in the prison are confined, and also into the condition, physical or otherwise, of the convicts so undergoing such sentence, and to report to the Governor quarterly, on the first day of November, February, May and August in each year, such cases as they may deem, after such examination, fit subjects for executive clemency.

Crim. Code, '12, § 948; Crim. Code, '02, § 662; G. S. 2711; R. S. 547; 1868, XIV, 94; 1878, XVI, 561; 1883, XVIII, 553.

(945) § 3. Compensation of Directors.—The Directors, for services performed under this Chapter, shall receive as compensation four dollars per diem for each day of attendance on the meetings of the Board at Columbia, and also five cents per mile by the most direct route going to and returning from said meetings.

Crim. Code, '12, § 949; Crim. Code, '02, § 663; G. S. 2712; R. S. 548; 1880, XVII, 374; 1893, XXI, 417.

(946) § 4. Superintendent Elected by General Assembly—Term of Office.—The State Penitentiary shall be under the direction and government of a Superintendent, to be elected by the General Assembly, who shall hold his office for two years. In case the office of Superintendent should

become vacant, such vacancy shall be filled in the mode provided for certain other State officers.

Crim. Code, '12, § 950; Crim. Code, '02, § 664; G. S. 2713; R. S. 549; 1878, XVI, 702.

Lipscomb *v.* Seegers, 19 S. C. 430.

(947) § 5. Bond of Superintendent.—The Superintendent, before entering upon the duties of his office, shall take the oath prescribed for public officers, and shall give bond, with two or more sufficient sureties, in the sum of twenty thousand dollars, to the State of South Carolina, conditioned for the faithful performance of the duties of his office.

Crim. Code, '12, § 951; Crim. Code, '02, § 665; G. S. 2714; R. S. 550; 1868, XIV, 92.

(948) § 6. Duties of Superintendent.—It shall be the duty of the Superintendent:

1. To Make Regulations.—To make and establish all such regulations, for the due management of the concerns of the Penitentiary, and for the government and security of the prisoners therein, as may be necessary and proper, and not repugnant to the laws of the State, and the same to alter, from time to time, as shall be found expedient, subject, however, to revision, alteration, or amendment by the Directors.

2. Appoint Keeper, Etc.—To appoint and remove at pleasure a keeper, such servants and guards as shall be necessary for the due management of the prison and safekeeping of the prisoners.

3. Make Purchases, Etc.—To purchase all provisions and materials and other articles necessary for supporting and employing the prisoners, and for effecting the objects of the institution. All bills of articles purchased for the said institution shall be submitted by the Superintendent to the board of directors at their monthly meetings, and upon their approval of the same the Superintendent shall draw his order on the Comptroller General, countersigned by the Chairman of the Board of Directors, in payment of said articles purchased. Every bill for articles so furnished shall be presented to the Board of Directors at their meeting next ensuing thereafter.

4. Repairs.—To make all necessary repairs of the prison, and superintend the construction of the work.

5. Sales.—To make sales of such articles produced in, or belonging to, the prison as are proper to be sold.

6. To Take Charge of Buildings.—To take the charge and custody of the buildings, furniture, tools, implements, stock, provisions, and every species of property pertaining to the prison belonging to the State.

7. Disburse Funds.—To receive and pay out all moneys granted by the General Assembly, or in any other way accruing for the support of the prison and carrying on the work: *Provided, however,* That all accounts for payment, including the payroll, shall be submitted to the examination of the Directors on the first Monday of every month, and, on their approval of the same, he shall draw his order on the Comptroller General, countersigned by the Chairman of the Directors, for the aggregate amount thereof;

and he shall not draw any order on the Comptroller General without such countersignature. He shall pay out all moneys at such times and in such manner as the Directors may from time to time direct.

8. Keep Books.—To keep suitable books, regular and complete accounts of all property, expenses, purchases, sales, income, business, and concerns of the establishment, and to make such monthly reports to the Directors as they may from time to time require.

9. Report Annually to Directors.—To report to the Directors, on or before the fifteenth day of October, annually, a list of the prisoners, the commencement and expiration of their several sentences, and a copy of the regulations of the prisons.

10. Report Accounts, Etc.—To make out and report to the Directors, and to the Comptroller General, on or before the fifteenth day of October, annually, minute statements of all his accounts and doings up to that time.

11. Suppress Disorders.—To suppress any disorders, riots, or insurrection that may take place among the prisoners.

12. Appoint Physicians—Salary.—To appoint a physician for the prison, who shall receive such salary as may be provided by law.

Crim. Code, '12, § 952; Crim. Code, '02, § 666; G. S. 2712; R. S. 551; 1875, XV, 965; 1868, XIV, 93; XVII, 373; 1894, XXI, 815.

State *v.* Neal, 59 S. C. 264, 37 S. E. 826.

(949) § 7. May Require Aid to Suppress Disorders.—In order to suppress any disorders, riots, or insurrection among the prisoners, the Superintendent may require the aid and assistance of any of the citizens of the State.

Crim. Code, '12, § 953; Crim. Code '02, § 667; G. S. 2716; R. S. 552; 1868, XIV, 94.

(950) § 8. Penalty for Refusal to Aid Superintendent.—If any person, when so required by the Superintendent, shall neglect or refuse to give such aid and assistance, he shall pay a fine not exceeding fifty dollars.

Crim. Code, '12, § 954; Crim. Code, '02, § 668; G. S. 2717; R. S. 553; 1868, XIV, 94.

(951) § 9. Compensation to Those Aiding Superintendent.—Any person so aiding and assisting the Superintendent shall receive a reasonable compensation therefor, to be paid by the Superintendent, and allowed him on the settlement of his account.

Crim. Code, '12, § 955; Crim. Code, '02, § 669; G. S. 2718; R. S. 554; 1868, XIV, 94.

(952) § 10. Superintendent Guiltless if Injury Results to Persons Aiding.—If, in suppressing any such disorder, riot, or insurrection, any person who shall be acting, aiding, or assisting in committing the same, shall be wounded or killed, the Superintendent, Keeper, or any person aiding or assisting him, shall be held, as justified and guiltless.

Crim. Code, '12, § 956; Crim. Code, '02, § 670; G. S. 2719; R. S. 555; 1868, XIV, 94.

(953) § 11. Powers of Keeper.—In the absence of the Superintendent, the Keeper shall have the same power in suppressing disorders, riots, and in-

surrections, and in requiring aid and assistance in so doing, that is herein given to the Superintendent.

Crim. Code, '12, § 957; Crim. Code, '02, § 671; G. S. 2720; R. S. 556; 1868, XIV, 94.

(954) § 12. Prisoners Sentenced by United States Authorites to Be Received.—The Superintendent shall receive and safely keep at hard labor, in the prison, all prisoners sentenced to confinement, at hard labor therein, by the authority of the United States, until they shall be discharged agreeably to the laws of the United States.

Crim. Code, '12, § 958; Crim. Code, '02, § 672; G. S. 2721; R. S. 557; 1868, XIV, 94.

(955) § 13. Suits at Law to Be Brought in the Name of Superintendent of Penitentiary.—All actions or suits at law accruing to the Penitentiary shall be brought in the name of the Superintendent thereof, who shall also appear for and defend actions or suits at law in which it is the interest of the Penitentiary to appear as a party defendant: *Provided,* That no suit or action of law shall be brought for or defended on behalf of the Penitentiary, except by authority of the Board of Directors.

Crim. Code, '12, § 959; Crim. Code, '02, § 673; G. S. 2722; R. S. 558; 1882, XVIII, 255.

(956) § 14. Chaplain to Be Appointed.—The Superintendent of the prison may appoint a Chaplain, who may be furnished with quarters within or near the enclosure, whose duty it shall be, on every Sabbath, and as often as the rules will permit, to perform in the prison such religious services as are usually performed in the churches of this State, and attend to instruct the prisoners in their moral and religious duties, and visit the sick on suitable occasions; and to visit the Reformatory in Lexington County once on Sunday to conduct religious services or Sunday school for the prisoners confined there; said Chaplain shall receive as compensation seven hundred and fifty dollars per annum.

Crim. Code, '12, § 960; Crim. Code, '02, § 674; G. S. 2723; R. S. 559; 1868 XIV, 94; 1880, XVII, 374; 1893, XXII, 417; 1903, XXIV, 123.

(957) § 15. Chaplain of Penitentiary to Visit Reformatory—Compensation.—The Chaplain of the Penitentiary shall visit the Reformatory, in Lexington County, at least once each Sunday for the purpose of holding divine service and Sunday school for the benefit of the youthful criminals therein confined; and for such service he shall receive an annual salary of one hundred and fifty dollars a year, to be paid as the salary of the State officers, in addition to the compensation now allowed him by law.

Crim. Code, '12, § 961; 1903, XXIV, 123.

(958) § 16. Salary of Superintendent, Physician and Captain of Guard, Etc.—The Superintendent shall receive a salary of two thousand five hundred dollars per annum; the Physician and Captain of the Guard, each one thousand and fifty dollars per annum; and the other officers and employees, such compensation as may be fixed by the Superintendent and approved by the Board of Directors, unless otherwise provided by law. The salaries of the Superintendent, Chaplain, Physician and Captain of the Guard, and of all other officers and employees of the

Penitentiary, shall be paid directly out of the earnings and funds of that institution.

Crim. Code, '12, § 962; Crim. Code, '02, § 675; G. S. 2724; R. S. 560; 1868, XIV, 95; 1879, XVII, 132; 1880, XVII, 374; 1893, XXI, 418; 1894, XXI, 751; 1919. XXXI, 101.

(959) § 17. Penalty for Connivance at Escape.—If any person employed in keeping, taking care of, or guarding the Penitentiary, or the prisoners therein, shall contrive, procure, connive at, or otherwise voluntarily suffer or permit the escape of any such prisoner or prisoners, he, on conviction thereof, shall be confined at hard labor in the Penitentiary not exceeding twenty years.

Crim. Code, '12, § 963; Crim. Code, '02, § 676; G. S. 2725; R. S. 561; 1868, XIV, 95.

(960) § 18. Transportation, Etc., for Discharged Convicts—Payments Of.—Whenever a convict shall be discharged from the Penitentiary it shall be the duty of the Superintendent to furnish such convict with a suit of common clothes, if deemed necessary, and transportation from the Penitentiary to his home, or as near thereto as can be done by public conveyances.

Crim. Code, '12, § 964; Crim. Code, '02, § 677; G. S. 2726; R. S. 562; 1868, XIV, 69.

The cost of such transportation and clothes shall be paid at the treasury, on the draft of the Superintendent, countersigned by the Comptroller General.

Crim. Code, '12, § 964; Crim. Code, '02, § 678; G. S. 2727; R. S. 563; 1868, XIV, 69.

(961) § 19. Guards, Etc., Exempt from Jury Duty, Etc.—All guards, keepers, employees, and other officers that are now, or may hereafter be, employed at the Penitentiary, shall be exempted from serving on juries, and from military, road or street duty.

Crim. Code, '12, § 965; Crim. Code, '02, § 679; G. S. 2728; R. S. 564; 1872, XV, 232.

(962) § 20. Costs of Maintaining Convicts by State Institutions.—Any institution of this State getting convicts from the State Penitentiary by any Act or Joint Resolution of the General Assembly of this State shall be required to pay to the Superintendent of the Penitentiary all moneys expended by him for transportation, guarding, clothing and feeding said convicts while working for said institutions, and also for medical attention, and the officer or officers in charge of said institutions shall also execute and deliver to said Superintendent of the Penitentiary, at the end of each year, a receipt for five dollars and fifty cents per month for the work of each convict so employed.

Crim. Code, '12, § 974; Crim. Code, '02, § 687; 1897, XXII, 493.

Clemson College to Pay for All Convicts Used.—Clemson Agricultural and Mechanical College is required to pay to the Board of Directors of the State Penitentiary hire for all convicts used by said college, at the rate of six dollars per month, and to pay the cost of clothing, feeding and guarding said convicts while so used; and also to pay the transportation of said convicts and guards back and forth from the Penitentiary to Clemson College.

Crim. Code. '12, § 974; 1908, XXV, 1201.

(963) § 21. Rewards for Capture of Escaped Convicts, and Payment of Expenses.—The Superintendent of the Penitentiary is authorized and required to offer a reward of twenty-five dollars for the capture of each escaped convict, and besides said reward, to pay to any person who captures and returns to the Penitentiary any escaped convict, five cents per mile each for said person and convict, and any reasonable allowance for expenses for board during the travel to the Penitentiary.

Crim. Code, '12, § 976; Crim. Code, '02, § 689; G. S. 2734; R. S. 570; 1882, XVII, 952.

(964) § 22. Penalty for Harboring or Employing Escaped Convicts—Whoever shall harbor or employ any escaped convict, knowing him to be such, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, or both fined and imprisoned, in the discretion of the Presiding Judge.

Crim. Code, '12, § 979; Crim. Code, '02, § 691; G. S. 2736; R. S. 572; 1882, XVII, 953.

(965) § 23. May Purchase or Lease Farms.—The Superintendent and Board of Directors of the Penitentiary are authorized, in their discretion, to purchase or lease, out of the surplus earnings of the Penitentiary, one or more farms in any part of the State, due regard being had to the reasonable healthfulness of the locality.

Crim. Code, '12, § 982; Crim. Code, '02, § 694; R. S. 575; 1885, XIX, 74.

(966) § 24. Violations of Law to Be Prosecuted.—It shall be the duty of the Superintendent and Board of Directors, and they are hereby required, to prosecute all violations of the law in reference to the treatment of convicts.

Crim. Code, '12, § 983; Crim. Code, '02, § 695; R. S. 576; 1885, XIX, 74.

(967) § 25. Clerks to Notify Superintendent of Penitentiary of Number of Convicts—Guards Sent.—It shall be the duty of the Clerks of the Court of General Sessions and Common Pleas of the several counties in this State, and they are severally hereby directed, immediately after the adjournment of the Court of General Sessions, in their respective counties, to notify the Superintendent of the Penitentiary of the number of convicts sentenced by the Court to imprisonment in the State Penitentiary; and it shall be the duty of the said Superintendent as soon as he receives said notice to send a suitable number of guards to convey said convicts to the Penitentiary.

Crim. Code, '12, § 986; Crim. Code, '02, § 698; G. S. 579; 1886, XIX, 486.

(968) § 26. Expenses of Transportation—How Paid.—No sum beyond the actual expenses incurred in conveying such convicts to the Penitentiary shall be allowed for such services, which said sum shall be paid to the Superintendent by the State Treasurer upon the warrant of the Comptroller General.

Crim. Code, '12, § 987; Crim. Code, '02, § 699; R. S. 577; 1886, XIX, 486.

(969) § 27. Governor May Suspend Sentence or Parole Prisoner.—In any case that may be deemed proper by the Governor, he may suspend

sentence or parole any prisoner upon such terms or conditions as he may deem just in the exercise of executive clemency.

Crim. Code, '12, § 988; 1909, XXVI, 121.

(970) § 28. Capital Punishment to Be by Electrocution.—All persons convicted of capital crime and have imposed upon them the sentence of death shall suffer such penalty by electrocution within the walls of the State Penitentiary, at Columbia, under the direction of the Superintendent of the Penitentiary instead of by hanging.

1912, XXVII, 702.

State *v.* Malloy, 95 S. C. 441, 78 S. E. 995; State *v.* Vaughn, 95 S. C. 455, 79 S. E. 312.

(971) § 29. Penitentiary Directors to Provide for Same—County to Pay Cost of Transporting Criminal to Place of Execution.—The Board of Directors of the State Penitentiary are authorized and required to provide a death chamber and all necessary appliances for inflicting such penalty by electrocution and pay the costs thereof out of any funds in their hands. The expense of transporting any such criminal to the State Penitentiary shall be borne by the county in which the offense was committed.

1912, XXVII, 702.

(972) § 30. Judges to Impose Sentence in Conformity—Sheriff to Convey Prisoner to State Penitentiary for Execution.—Upon the conviction of any person in this State of a crime, the punishment of which is death, it shall be the duty of the Presiding Judge to sentence such convicted person to death according to the provisions of Section (970), and to make such sentence in writing, which shall be filed with the papers in the case against such convicted person, and a certified copy thereof shall be transmitted by the Clerk of the Court of General Sessions in which said sentence is pronounced to the Superintendent of the State Penitentiary, at Columbia, not less than ten days prior to the time fixed in the sentence of the Court for the execution of the same, and in all cases it shall be the duty of the Sheriff of the county in which such convicted person is so sentenced, together with one deputy or more, if in his judgment it is necessary, to convey such convicted person to the Penitentiary, at Columbia, to deliver him or her to the Superintendent of the State Penitentiary not more than twenty days nor less than two days prior to the time fixed in the judgment for the execution of such condemned person, unless otherwise directed by the Governor, or unless a stay of execution has been caused by appeal, or granting of a new trial, or other order of Court of competent jurisdiction.

1912, XXVII, 702.

(973) § 31. Who may Witness Execution.—At such execution there shall be present the executioner and at least two assistants, the Penitentiary surgeon and one other surgeon, if the condemned person so desires, an electrician, the condemned person's counsel and relatives, if they so desire, ministers of the gospel, not exceeding three, if they so desire, and not less than twelve nor more than twenty-four respectable citizens of this State, to be designated by the executioner.

1912, XXVII, 702.

(974) § 32. Executioner to Certify to Execution.—The executioner and the attending physician shall certify the fact of such execution to the Clerk of the Court of General Sessions in which such sentence was pronounced, which certificate shall be filed by the Clerk with the papers in the case.

1912, XXVII, 702.

(975) § 33. Disposition of the Body—Proviso.—The body of person so executed shall be delivered to relatives; and in case no claim is made by relatives for such body the same shall be disposed of as bodies of convicts dying in the State Penitentiary: *Provided,* That if nearest relatives of persons so executed desire, that body be carried to former home, if in the State, the expenses for such transportation shall be paid by Penitentiary authorities, who shall draw their warrant upon County Treasurer of county from which said convict came and said County Treasurer shall pay same and charge to item of Court expenses.

1912, XXVII, 702.

(976) § 34. Supervisors May Use Certain Convicts.—The County Supervisor from each county in the State may be allowed to use any of the convicts he may select, sentenced from his county to the State Penitentiary, without charge, for the purpose of working the roads of his county, and for such other purposes as he may deem proper. Said convicts shall be under the absolute custody and control of the Supervisor and whatever guards he may appoint.

1914, XXVIII, 626.

White et. al. *v.* Sanders, 114 S. C. 54; 103 S. E. 86.

CHAPTER XXVI.

Reformatories.

(977) § 1. State Board Public Welfare Created—Appointment of Members—Term—Oath—Vacancies.—There is hereby created a State Board of Public Welfare, to consist of seven members, as follows: The Governor, *ex efficio,* who shall be chairman, and six other members to be appointed by the Governor with the advice and consent of the Senate, the appointive members to serve one, two, three, four, five and six years, respectively, and thereafter upon the expiration of the term of a member his successor shall be appointed for a term of six years. Each member of the Board shall, before entering upon the discharge of his duties, take an oath for the faithful performance of the duties of his office. In case of a vacancy on said Board, by death, resignation, removal or otherwise, the Governor shall appoint some person for the unexpired term. No director, officer or employee of any institution subject to the terms of this Chapter shall be a member of this Board.

1920, XXXI, 999.

(978) § 2. Removal of Members.—Any member of the Board of Public Welfare may at any time be removed by the Governor for cause. The failure of a member to attend two consecutive meetings of the Board,

unless excused by the Governor, shall have the effect of the resignation of such non-attending member.

1920, XXXI, 999.

(979) § 3. Meetings—Powers Devolved. The Board shall hold regular meetings in February, May, August and November of each year, and oftener if required, and make such rules, orders and regulations as may be necessary for the government and control of all penal and charitable institutions and activities of the State, hereinafter provided for, that it may deem advisable. It shall succeed to all the duties, powers and authority now held and exercised by the State Board of Correctional Administration, the State Board of Charities and Corrections and the Board of Regents of the State Hospital for the Insane, in so far as the duties and powers of the Board of Regents relate to the State Training School for the Feeble-Minded.

1920, XXXI, 999.

(980) § 4. Appointment of Superintendents and Warden—Employees —Bond of Superintendents—Secretary of Board—Powers—Bond.—The Board of Public Welfare herein created shall appoint a Superintendent of the South Carolina Industrial School for White Boys, a Superintendent of the State Industrial School for White Girls, a Warden for the State Reformatory for Negro Boys, and a Superintendent for the State Training School for the Feeble-Minded, to serve during the pleasure of the said Board. Each of the said superintendents shall have power in his discretion to employ such officers and employees to serve under him as may be necessary and authorized by the Board of Public Welfare. Each of said superintendents shall enter into bond, with sufficient surety, approved by the Board of Public Welfare, in such amount as the Board may determine, conditioned on the faithful performance of the duties of his office. The Board of Public Welfare shall appoint a secretary, at a salary of thirty-five hundred ($3,500.00) dollars per annum, who shall be the executive officer of the Board, and who shall perform such duties as the board may prescribe. The said secretary shall succeed to all duties, powers and authority now held and exercised by the secretary of the State Board of Charities and Corrections. He shall furthermore take an oath for the faithful performance of the duties of his office, and shall enter into bond in such amount as the Board may determine, conditioned on the faithful performance of the duties of his office. No person while a member of the Board of Public Welfare, or within twelve months after his retirement therefrom, shall be eligible to the position of secretary.

1920, XXXI, 999.

(981) § 5. Disbursement of Appropriations.—That the funds appropriated by the General Assembly for the various institutions and activities included within the terms of Sections (977) to (983) shall be paid by the State Treasurer on warrants of the Comptroller General, but no warrants shall be issued except upon vouchers approved by the Governor and the Secretary of the Board.

1920, XXXI, 999.

(982) § 6. Expenses of Members.—The appointive members of the Board herein created shall receive no compensation, but shall be entitled to receive actual expenses while in attendance upon the meetings of the Board.

1920, XXXI, 999.

(983) § 7. State Board of Charities and Corrections and State Board of Correctional Administration Abolished.—The State Board of Charities and Corrections and the State Board of Correctional Administration are hereby abolished.

1920, XXXI, 999.

(984) § 8. Visitorial Powers and Duties.—The Board of Public Welfare is hereby empowered and authorized, and it shall be its duty as a whole or by a committee of its members or by its secretary or assistant secretary, to visit, inspect and examine once a year, or oftener, the State, county, municipal and private institutions which are of an eleemosynary, charitable, correctional or reformatory character, or which are for the care, custody or training of the defective, dependent, delinquent or criminal classes, except that the hospitals for the insane, the penitentiary and the reformatories shall be visited as often as once in six months and by at least two members of the Board; it shall also inspect and report upon the workings and results of chartered institutions or associations engaged in the care and protection of homeless, dependent, defective and delinquent children or adults. The Board shall make reports regarding the condition of said institution or associations, the care of their inmates, the efficiency of their administration and such other matters pertaining thereto as it may deem proper. All reports shall be duly signed and filed in the office of the Board and copies thereof transmitted to the chairman of the Boards of Supervisors in the counties and Chairmen of the Councils in cities and the officials who are in charge of the institutions. That the officers and all other persons in charge of, or connected in any way with, the administration or management of such public institutions are hereby required to furnish to the Board, or its committee, secretary or assistant, such information and statistics as may be required and allow said Board, its committee, secretary or assistant secretary or other agents of the Board, full and free access to all inmates and departments of such institutions and to all their records for the purposes of this Section. That with a view of increasing the efficiency of public officials and bringing institutions for the care and custody of the dependent, defective and delinquent classes up to a high and modern standard, the Board shall cause to be distributed among such officials literature bearing upon subjects embraced under this Section: *Provided, however,* That the provisions of this Section shall not be construed to apply to the South Carolina School for the Deaf and Blind, located at Cedar Springs.

1915, XXIX, 132; 1920, XXXI, 749.

(985) § 9. Reports of Superintendents and Chief Officers—Suggestions to Certain Officials.—Every Superintendent or chief officer having in charge a hospital, penitentiary, prison, farm, reformatory, almshouse,

jail, or other institution within the provisions of the preceding Section, shall make quarterly reports to the Board containing such information and in such form as said Board may prescribe. That the purposes of this Section may be carried out, the members of the said Board and its secretary shall confer with and suggest any matters of importance to officials connected with the institutions under their supervision.

1915, XXIX, 132.

(986) § 10. **Plans for New Jails, Etc., Submitted to Board.**—All plans for new jails, reformatories and almshouses shall, before the adoption of the same by the county or city authorities, be submitted to said Board, who shall promptly return the same with such suggestions and recommendations as it may deem reasonable and proper.

1915, XXIX, 132.

(987) § 11. **Local Committee of Visitors—Duties of Committee.**—For each county or city there shall be appointed by the said Board a local committee of visitors, consisting of three persons, one of whom shall be a member of the local Board of Health, and one of whom may be a woman, to aid the Board in its work. The duty of said committee shall be to visit and inspect as often as it may deem advisable or upon request of the Board, and to report annually or upon request to the Board any matters of importance respecting the jails and almshouses in any such county or city, and to encourage and aid the local authorities in maintaining such institutions in an efficient manner. The members of such committees shall receive no compensation, but shall be provided by said Board with all necessary stationery and forms for keeping proper records and making their reports to the Board.

1915, XXIX, 132.

(988) § 12. **Board to Collect Certain Statistics.**—The said Board shall collect, compile and publish statistics regarding the dependent, defective and delinquent classes both in and out of institutions, within the State, and such other data as may be of value.

1915, XXIX, 132.

(989) § 13. **Annual Report to the Governor—Copy of Report Filed With Clerk of Court of Each County.**—The Board shall annually, not later than December first, in each year, make to the Governor a full and complete report of its acts and doings during the preceding year, stating in detail all expenses incurred, all officers and agents employed and showing the actual condition, care of inmates and other pertinent matters with such recommendations as may be deemed proper to be submitted to the General Assembly. The Board shall file a copy of said annual report in the office of the Clerk of Court of each county and in the office of the Clerk of each municipality in this State and shall also transmit copies thereof to each State institution embraced by Section (984). The said Board shall make reports as often as once a month to the State Board of Health on all matters that are subject to the jurisdiction of said Board of Health so that they may be kept constantly informed of these matters.

1915, XXIX, 132.

(990) § 14. Board to Make Investigations—Powers—Designated by the Governor.—Whenever the Governor considers it proper or necessary to investigate the management of any institution receiving aid from the State and required to be inspected under the provisions of this Chapter, he may direct the Board of Public Welfare, or any committee thereof designated by the Governor, to make said investigation, and said committee as a Board have the power to administer oaths and to summon officers, employees or other persons to attend as witnesses and to enforce their attendance, and to compel them to produce documents and give evidence.

1915, XXIX, 132; 1920, XXXI, 999.

(991) § 15. Duties of Board in Regard to Support of Inmates of State Hospital.—The Board of Public Welfare, through one or more of its agents, shall investigate the financial condition of the inmates now in the State Hospital for the Insane, or hereafter committed or admitted, or applying for commitment or admission thereto, and of the relatives liable for the support of such inmates, in order to determine the ability of any inmate or such relative to make payment in whole or in part for the support of the said inmate: *Provided,* That in all cases due regard shall be had for others who may be dependent for support upon the estate of said inmate.

1915, XXIX, 132.

(992) § 16. Powers of Agent Making Investigations—Payment of Money for Support of Inmates—Attorney General's Duty as to Collections—Cashier—Appointment—Duties.—Such agent, in making investigations, shall have power to subpœna witnesses, taking testimony under oath, to examine any public records relating to the estate of an inmate or of a relative liable for his or her support. All his information, conclusions and recommendations shall be submitted to the Board of Regents for the State Hospital. The Board, or committee thereof, appointed for that purpose, shall determine whether such relative shall be required to pay for the support of such inmates or whether such charges shall be made against the estate of such inmate. An order shall be issued to the persons who are determined liable for such payments, requiring them to pay monthly, quarterly or otherwise, as may be arranged, to the Board such amount as it or the committee shall deem proper, but no order shall be issued compelling payment for an inmate prior to May 2, 1915. The Board shall make all reasonable and proper efforts to collect such amounts, and in case of inability to collect for a period of six months the Attorney General, upon the recommendation of the State Board of Regents, shall direct the prosecuting attorney of the proper county to collect or institute civil action in the name of the State of South Carolina to recover the amount due, with interest and the cost of the action. All moneys received, as herein provided, by suit instituted, shall be paid to the State Treasurer and placed in the general revenue fund and a separate account kept thereof. The Board shall appoint a competent person as cashier to receive and account for all moneys collected and to perform such other duties as may be assigned him.

1915, XXIX, 132.

(993) § 17. **Board May Cancel or Modify Order to Make Payment for Support of Inmate.**—Any person who has been ordered to make payment for the support of an inmate may petition the State Board of Public Welfare for a release from, or modification of, such order, and said Board, after investigation by the agent, may cancel or modify such former order. The Board shall at any time for due cause have the power to increase the amount previously ordered paid.

1915, XXIX, 132.

(994) § 18. **Superintendents Required to Furnish Board of Regents With Information.**—The superintendents of the State institutions shall submit to the Board of Regents such information as they may obtain concerning the financial condition of any inmate or of relatives liable for his or her support.

1915, XXIX, 132.

(995) § 19. **When Estate is Sufficient for Support—Appointment of Committee.**—In case the estate of an inmate is sufficient for his or her support, without hardship to any others who may be dependent thereon, and no committee has been appointed for such estate, the agent shall petition the Probate Court of the proper county to appoint a committee.

1915, XXIX, 132.

(996) § 20. **Assistant Agents Provided For.**—In order to facilitate the investigation of the financial condition of the inmates in such State institutions, and of persons liable for their support, one assistant agent may be employed.

1915, XXIX, 132.

(997) § 21. **Further Provisions in Regard to Support of Inmates—Duties of Executors and Administrators.**—Upon the death of a person who is an inmate, or has been an inmate since February 20th, 1915, of said institution, and who is possessed of property, it shall be the duty of the executor or administrator to ascertain from the State Board of Public Welfare whether the deceased person was supported while an inmate, and if not, the Board may present a claim for support, or for the balance due in case less than the minimum rate had been paid. Such claim shall be allowed and paid as other lawful claims against the estate: *Provided,* That the Board may waive the presentation of any claim when, in their judgment, an otherwise dependent person would be directly benefited by the estate. It shall be lawful for the Board to accept from a guardian, committee or trustee of an inmate a contract agreeing to pay to the State from the property of his ward before or after death of his ward a fixed annual amount for the support of such ward while an inmate, and with interest at four per cent. per annum. A copy of such contract shall be filed in the Probate Court of the proper county, and duly entered as a part of the records concerning such ward.

1915, XXIX, 132.

(998) § 22. **Industrial School Established.**—There is hereby established under the care of this State a Reformatory and Industrial School,

under the name and style of South Carolina Industrial School, which is hereby declared to be a body corporate, and as such may sue and be sued, plead and be impleaded, in its corporate name, and may have and use a common seal, which it may alter at its pleasure, and shall have the right to acquire, by purchase, deed, devise, bequest or otherwise, such property, real and personal, as may be necessary or proper for its purposes, and may have and exercise all such powers and privileges as may be necessary or proper for carrying out the purposes of its organization, as herein declared. The Board of Public Welfare are hereby authorized and empowered in their discretion to purchase and pay for, or to lease one or more farms in any part of the State, due regard being had to the reasonable healthfulness of locality, and to use any money on hand, or that may accrue out of the profits of said Industrial School to purchase and pay for said farm or farms, and to defray the expenses incurred in providing such buildings, stockades, and other appurtenances to the said school as in their judgment and discretion may be advisable: *Provided,* That the amount so expended shall not exceed fifty thousand dollars.

Crim. Code, '12, § 990; 1906, XXI, 133; 1916, XXIX, 884.

(999) § 23. Management of School.—The business, property and affairs of said corporation shall be under the management and control of the State Board of Public Welfare.

Crim. Code, '12, § 991; 1906, XXV, 133; 1920, XXXI, 999.

(1000) § 24. Procedure for Commitment and Dismissal of Boys.—White boys between their eighth and seventeenth year may be voluntarily committed to said institution by their parents or guardians, or the persons having such boys in charge, or who, having no parent or guardian, or other person to care for them, may voluntarily commit themselves to its keeping: *Provided,* That in the case of boys committed otherwise than upon a conviction of crime, the warrant of commitment shall not be valid until approved and endorsed in writing by a Judge of the Circuit Court, or Probate Court, or a Judge of a County Court, of this State, at chambers or otherwise, after careful investigation: *Provided,* Said Board of Public Welfare may, in their discretion, require the payment of reasonable sums to provide for the maintenance and tuition of boys voluntarily committed. Any commitment under this Section, whether by Judge, Magistrate, parent or guardian, or by any other person having in charge the said boy, or by the said boy himself, if he has no person to care for him, shall be full and sufficient authority to the trustees, officers and agents of said school for the detention and keeping therein of the boy so committed. Any boy committed to said institution under the provisions of Sections (998) to (1002), inclusive, shall be kept therein until he arrives at the age of twenty-one years, unless sooner dismissed therefrom by order of the Board of Public Welfare, upon the recommendation of the Superintendent of said school or upon the hearing of an application or petition presented to said Board at a meeting thereof. From the time of the lawful reception of any boy into said institution, and during his stay therein, said institution shall have exclusive care, custody and control of said boy, and said Board shall cause said boy to be instructed in such branches of

useful knowledge as may be suited to his years and capacity, and said Board shall also cause said boy to be taught a useful trade or other means of earning an honest livelihood. Any boy committed under the terms of said Sections to said institution shall be conveyed by the Sheriff, Deputy Sheriff, or persons appointed by the Sheriff of the county in which such boy resides, to the said institution at Florence, and the expense of such conveyance and delivery shall be borne by such county: *Provided,* That the Judge who commits or approves the commitment may in his discretion order that such boy be sent to said institution without the attendance of an officer or in such manner as may be advisable.

Crim. Code, '12, § 993; 1906, XXV, 133; 1916, XXIX, 886.

(1001) § 25. When Boys May Be Committed by Courts.—When any white boy between his eighth and seventeenth birthday shall be indicted for any crime, before he is tried, by consent of his parents or guardian or person having lawful custody of him, the Judge or Magistrate before whom he is indicted may commit such boy to the Industrial School for training and education, or if after trial and conviction in lieu of sentence for punishment of such crime, the Presiding Judge or Magistrate may commit such boy to said Industrial School until released by order of the Board of Public Welfare, or until released under the terms of the preceding Section.

Crim. Code, '12, § 994; 1906, XXV, 133; 1910, XXVI, 756; 1912, XXVII, 530.

(1002) § 26. Leave on Probation.—The said Board shall have power to permit the boys to leave said school, on parole or probation, during such period of time as said Board may deem advisable.

Crim. Code, '12, § 995; 1906, XXV, 133.

(1003) § 27. Support of School.—All expenses of maintaining said reformatory at Florence shall be borne by the State, except such sums as may be paid by the parents or guardians of certain boys.

Crim. Code, '12, § 997; 1906, XXV, 133; 1912, XXVII, 530.

(1004) § 28. Provision for Transfer of Inmates of Industrial School to Hospital for Insane.—Whenever any inmate of the South Carolina Industrial School, located at Florence, in the County of Florence, is found demented or insane, this fact being determined as now provided by law in such cases, such inmate shall be forthwith conveyed by the said school to the State Hospital for the Insane for care and treatment, and the expenses therefor shall be borne by the county from which such inmate has been committed.

1914, XXVIII, 666.

(1005) § 29. Penitentiary to Use Part of Lexington State Farm for Reformatory.—The Board of Directors and Superintendent of the State Penitentiary are hereby authorized and required to set apart so much of the State farm, in the County of Lexington, as may be necessary for a Reformatory, exclusively for colored boys. They shall also provide suitable buildings and stockade for the safekeeping and comfort of persons sentenced thereto.

Money That May Be Used.—The Superintendent of the Penitentiary is authorized to use any money on hand, or that may accrue out of the profits of the State Penitentiary, to defray the expenses incurred in providing such buildings and stockade and other appurtenances to the State Reformatory farm.

Warden or Overseer—How Appointed.—He shall also appoint as warden or overseer, a person who, from practical experience, possesses the ability and qualifications necessary to successfully carry on the industries of the Reformatory, and to enforce and maintain proper discipline therein, and shall remove the same at will. Salary of the warden shall be paid of the profits of the State Penitentiary.

Rules for Government.—The Board of Directors and Superintendent of the Penitentiary shall make rules and regulations for the government of the Reformatory.

Who Shall Be Placed in Reformatory.—The Superintendent of the Penitentiary shall place in the Reformatory all male criminals, other than white boys, under sixteen years of age, who shall be legally sentenced to said Reformatory on conviction of any criminal offense in any Court having jurisdiction thereof and punishable by imprisonment in the State Penitentiary. He shall also remove all such convicts now in the Penitentiary as soon as existing circumstances will allow. The discipline to be observed in the said prison shall be reformatory, and the warden shall have power to use such means of reformation, consistent with the improvement of the inmates, as may be prescribed by the Board and Superintendent. The Superintendent shall provide for the instruction of the inmates in morals as well as useful labor.

Crim. Code. '12, § 989; Crim. Code, '02, § 700; 1900, XXIII, 443; 1906, XXIV, 133.

(1006) § 30. Reformatory for Colored Boys.—The Reformatory now in operation on the State Farm, in Lexington County, referred to in Section (805), shall be used exclusively for colored boys. The said Reformatory for colored boys shall be under the management and control of the Board of Directors of the State Penitentiary; the cost of maintaining such Reformatory for colored boys to be defrayed, as at present, out of the earnings of the State Penitentiary.

Crim. Code, '12, § 996; 1906, XXV, 135.

(1007) § 31. Laws in Regard to Industrial School Apply to Reformatory.—The present laws governing commitment of boys to the South Carolina Industrial School, the control of the boys so committed and their parole, shall apply to the State Reformatory for Negro Boys; it being the intention of this Section to make uniform the laws governing the two institutions.

1918. XXX, 890.

(1008) § 32. State Industrial School for Girls Established.—There shall be, and is hereby, established under the provisions of this Chapter an institution for females to be known as "The State Industrial School for Girls."

1918. XXX. 853.

(1009) § 33. **Corporate Powers.**—The State Industrial School for Girls is hereby declared to be a body corporate and, as such, may sue and be sued, plead and be impleaded, in its corporate name; may have and use a proper seal, which it may alter at its pleasure; and shall have the right to acquire by purchase, deed, devise, lease for a term of years, bequest, or otherwise, such property, real and personal, in fee simple without limitations as may be necessary or proper for carrying out the purposes of its organization as herein declared.

1918, XXX, 853.

(1010) § 34. **Management.**—The business, property, and affairs of the State Industrial School for Girls shall be under the control of the State Board of Public Welfare.

1918, XXX, 853; 1920, XXXI, 999.

(1011) § 35. **Buildings.**—It is declared to be the purpose and policy of the State with respect to said institution that the buildings to be constructed for its use shall be plain and inexpensive in character, and that, in so far as practicable, the labor in constructing such buildings, improvements, and facilities, shall be supplied by the convicts of the State Penitentiary, as hereinafter provided. Such other or additional labor may be employed by the said Board as in their judgment may be needed.

1918, XXX, 853; 1920, XXXI, 999.

(1012) § 36. **Use of Convicts.**—The State Penitentiary, on request from the said Board, is authorized to transfer to said Industrial School such convicts as, in the judgment of the Superintendent of said State Penitentiary, would be useful in constructing the buildings and installing the equipment of said Industrial School. The State Penitentiary shall provide transportation and proper guards for said convicts; and while they remain at the State Industrial School for Girls they shall be under the control, discipline, and government, and subject to the orders of the said Board and its executive officers. The expense of transportation and transfer of convicts used as above provided to and from the said Industrial School, together with their guarding and maintenance, shall be paid out of the funds provided for the establishment of said Industrial School.

1918, XXX, 853.

(1013) § 37. **Who to Be Admitted.**—This Section shall apply only to white females between the ages of eight and twenty years residing within or actually being within the borders of any county or city of the State of South Carolina:

(a) Who shall have been tried before any Magistrate, county, city, or Circuit Court and found guilty of violating any law or laws for which the punishment is fine or imprisonment in the State Penitentiary, or in any county or city jail, or by hard labor for any county or city; or

(b) Who knowingly associate with thieves, vicious, or immoral persons; are incorrigible; absent themselves from home without the consent of their parents or guardians or without just cause; are growing up in idleness or crime; knowingly visit or enter a house of ill repute; visit or pat-

ronize gambling houses, saloons, or other vicious or immoral resorts; wander about the streets at night; use vile, obscene, or indecent language; or are immoral or indecent.

1918, XXX, 853.

(1014) § 38. Commitment.—When any white female between the ages of eight and twenty years shall have been tried before any Magistrate, county, city or General Sessions Court, and found guilty of a violation of any law or laws punishable by fine or imprisonment in the State Penitentiary, or in any county or city jail, or by hard labor for any county or city, if, in the opinion of said Court, the interest of such female would thereby be promoted said Court may commit said female, in lieu of fine or imprisonment, to the State Industrial School for Girls for an indeterminate period not to extend beyond the twenty-first birthday of said female: *Provided,* That if, in the opinion of said Court, said female should be placed on probation rather than imprisoned or fined, said Court shall remand said female to the Judge of Probate in the county in which her case arose with instructions to this effect, if it be a General Sessions Court, or with recommendations, if it be any other Court; and in the latter instance the said Judge of Probate shall then handle the case as he may deem best in accordance with the provisions of this Chapter and the laws of this State.

1918, XXX, 853.

(1015) § 39. Procedure for Commitment.—Any reputable person, or any State, county or municipal official, having reason to believe that a white girl comes within the provisions of this Chapter, may file with the Judge of Probate of the county in which said girl is at that time living, a petition, which may be upon information and belief, stating the girl's name and residence, together with the names and residences of her parents, guardian, or other person or persons having custody, control, or supervision of such girl in so far as same may be known to petitioner. The petitioner shall also state the reasons upon which he or she believes said female a juvenile delinquent under the terms of this Chapter. Thereupon, the said Judge of Probate shall issue a summons to said female and to the person or persons having the custody or control of said female to appear with her before him and if, in the opinion of said Judge, said summons is ineffectual or likely to be, he may issue a warrant for said female and the parents or custodians of said girl, and in either case failure to appear may be treated as contempt of Court. The Court shall designate the disposition of the female pending trial. In handling the case the Court may adopt any form of procedure which it deems best suited to ascertain the truth. When demanded by said female, or when the Court deems advisable, a jury of six shall be empaneled to decide the case. All trials provided for herein shall be as nearly private as possible, the public being excluded to the maximum extent. If said female be adjudged guilty, the Court shall either commit her to the State Industrial School for Girls or place her on probation: *Provided,* That if she violates her probation she shall then be committed to the said Industrial Home.

1918, XXX, 853.

(1016) § 40. Term and Form of Commitments.—All commitments to the State Industrial School for Girls shall be for an indeterminate period not to extend beyond the twenty-first birthday of the person committed; they shall be made in the following form or one of similar import, according to the facts, and shall not be valid unless approved and endorsed in writing by the Judge of the Court making the commitment and attested thereto by the Clerk of said Court if there be such Clerk:

ORDER OF COMMITMENT.

State of South Carolina,
County of .....

Be it remembered, That on the ..... day of ....., A. D. 19.. application was made to the undersigned, Magistrate or Judge of the ..... Court of ..... County, State of South Carolina, by ..... for the commitment of ..... to the custody of the Board of Trustees of the State Industrial School for Girls, and upon due proof, I do find that said ..... is a suitable person to be so committed.

It is, therefore, ordered that the application of the said..... be granted; that the said ..... be, and is hereby, committed to the custody of the Board of Public Welfare to be detained by it at the State Industrial School for Girls, or such other place as may be designated by said Board, where she can be most faithfully and properly cared for, and that she shall be detained therein until she reaches the age of twenty-one years, unless sooner released by said Board, subject to such rules and regulations as said Board may establish; it is further ordered that the entire cost of conveying her thereto be paid by.....County as provided by law.

I find that said girl is charged with (state the charge explicitly) .... That she was born at ....., on the .....day of ....., A. D. ..... That her father's name and residence is ....., and his occupation is ..... That her mother's name and residence is ..... and her occupation is ..... That the names and residences of her nearest relatives, or of her guardian, are as follows:

.....

In witness whereof, I have hereunto subscribed my name and caused to be affixed the seal of said Court, at ....., this.....day of ....., A. D. 19....

....., Judge of the Court of..... County.

Attest:

..... Clerk of Said Court.

1918, XXX, 853.

(1017) § 41. Custody of Inmates.—Any commitment under this Chapter shall be full and sufficient authority to the said Board, officers, and agents of the said Industrial School for the detention and keeping therein of any girl until she arrives at the age of twenty-one years, unless sooner dismissed therefrom by order of the said Board, or released therefrom by order of a Judge of the Supreme Court or Circuit Court of this State, ren-

dered at chambers or otherwise, in a proceeding in the nature of an application for a writ of *habeas corpus*. That from the time of lawful reception of any girl into said institution, and during her stay therein, said institution shall have exclusive care, custody, and control of said girl, and the said Board shall cause said girl to be instructed in such branches of useful knowledge as may be suited to her years and capacity; and the said Board shall also cause said girl to be taught a useful trade or other means of earning an honest livelihood.

1918, XXX, 853.

(1018) § 42. Transfers to Penitentiary.—The said Board of Public Welfare of the said Industrial School shall have the power, with the consent of the Governor or its Secretary, to transfer temporarily to the State Penitentiary any white female who has been committed to the said Industrial Home, who is more than eighteen years of age, and whose presence in the said Industrial Home for Girls appears to be seriously detrimental to the welfare of the institution. It shall be the duty of the Superintendent of the State Penitentiary, on behalf of the Board of Directors thereof, to receive such females as may be transferred thereto as herein provided, and properly care for them. Each female thus transferred to the State Penitentiary shall be held therein, subject to all the rules and discipline of the said State Penitentiary, until she shall reach the age of twenty-one years, provided that the said Board of Public Welfare may by written requisition, which the said Superintendent of the said Penitentiary shall honor, require the return to the said Industrial School of any female who may have been so transferred. The costs in making such transfers to and from the said State Penitentiary shall be borne by the said Industrial School for Girls.

1918, XXX, 853.

(1019) § 43. Epileptics, Etc., Not to Be Admitted—Transfers.—No girl shall be committed to said Industrial School who is epileptic, insane, or feeble-minded. The Court shall also furnish a statement of such facts as can be ascertained concerning the personal and family history of the girl. If it shall develop, after a girl is committed to this institution, that she is an epileptic, insane, feeble-minded, or paralytic, such girl may be transferred by the said Board to such other State Institution, now in existence or hereafter created, as in their judgment is best qualified to care for such girl, in accordance with the laws of this State.

1918, XXX, 853.

(1020) § 44. Paroles—Parole Officers.—Whenever the Board of Public Welfare shall deem it for the best interests of any girl in its custody, it shall instruct the Superintendent of the said Industrial Home to release such girl on parole as soon as suitable provisions therefor shall have been made. One or more women shall be employed as visiting agents or parole officers for the said school, whose duty it shall be, under the direction of the Superintendent, to find homes for the girls so released, visit them thereafter, and to carry on such other features of good parole work as may from time to time prove necessary or advisable. No girl shall be placed in a home which has not been previously investigated by such agent and a full report

thereof made to the Superintendent. Such agent shall visit such girls as often as the Superintendent shall deem necessary to ascertain whether they are properly placed, and shall from time to time make to the Superintendent full reports of all investigations and visits made by her. It shall be the duty of the Superintendent to recall any girl who may not conduct herself properly or who does not have a suitable home.

It shall be the duty of the said visiting agent or agents to ascertain and report to the Superintendent all facts regarding the personal and family history of the girl she can, together with such other data as may be deemed of value in the proper treatment of said girl.

1918, XXX, 853.

(1021) § 45. Accessories to Violations of Rules, Etc., Guilty of Misdemeanor.—The Board of Public Welfare shall adopt rules for the conduct of the girls legally committed to their custody, and also for their parole and after-supervision until twenty-one years of age, not inconsistent with this Chapter. Any person who is convicted in any Court of competent jurisdiction of causing or encouraging any such girl to violate any of said rules shall be deemed guilty of a misdemeanor, and shall be fined in any sum not exceeding five hundred dollars, to which may be added imprisonment in the State Penitentiary for a period not exceeding six months.

Specifically, it shall be unlawful for any person to cause, aid, encourage or influence any girl, who is a ward of the State Industrial School for Girls, to enter or remain in a house of prostitution, a house or lodging place used for immoral purposes, a gambling place, to violate any law of this State or ordinance of any city, to indulge in vicious or immoral conduct, to violate her parole or run away from the supervision of the authorities of said Industrial School, or to harbor any such girl who has escaped from such Industrial School, or who is running away from the supervision of the authorities of same; and any person who violates any of the provisions of this Section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not exceeding five hundred dollars, to which may be added imprisonment in the State Penitentiary for a period not exceeding six months.

1918, XXX, 853.

TABLE OF COMPARATIVE SECTIONS

CRIMINAL CODE OF 1912

AND

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16	154	53	203	91	252	108	301	339	350
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150	157	243	206	245	255	464	304	342	353
151	158	168	207	94	256	154	305	343	354
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153	160	.....	.....	114	258	156	307	345	356
213	161	61	210	123	259	157	308	346	357
17	162	244	211	124	260	158	309	347	358
18	163	68	212	125	261	159	310	348	359
.....	.....	69	213	126	262	162	311	349	360
19	165	70	214	127	263	.....	.....	350	361
21	166	96	215	128	264	.....	.....	351	362
22	167	71	216	.....	.....	163	314	352	363
23	168	72	217	.....	.....	164	315	.....	.....
24	169	62	218	.....	.....	165	316	365	365
25	170	63	219	.....	.....	170	317	353	366
26	171	64	220	.....	.....	240	318	354	367
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27	173	73	222	.....	.....	310	320	356	369
29	174	74	223	.....	.....	311	321	357	370
30	175	75	224	130	273	312	322	358	371
31	176	76	225	131	274	313	323	477	372
32	177	77	226	539	275	314	324	359	373
33	178	78	227	253	276	315	325	360	374
34	179	97	228	132	277	316	326	361	375
35	180	110	229	133	278	317	327	362	376
36	181	111	230	254	279	318	328	363	377
37	182	....	....	255	280	319	329	364	378

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372	379	451	441	206	503	492	565	595	627
373	380	432	442	207	504	493	566	596	628
374	381	433	443	.....	.....	494	567	597	629
375	382	434	444	.....	.....	495	568	598	630
376	383	435	445	.....	.....	496	569	.....	.....
377	384	171	446	.....	.....	497	570	546	632
378	385	172	447	.....	.....	499	571	599	633
379	386	.....	.....	212	510	500	572	600	634
380	387	.....	.....	215	511	501	573	601	635
381	388	.....	.....	214	512	502	574	602	636
382	389	173	451	219	513	503	575	603	637
383	390	174	452	220	514	504	576	.....	.....
384	391	175	453	221	515	505	577	632	639
385	392	261	454	222	516	509	578	676	640
386	393	262	455	223	517	510	579	.....	.....
327	394	176	456	224	518	511	580	.....	.....
387	395	177	457	225	519	512	581	604	643
.....	.....	178	458	226	520	513	582	627	644
389	397	179	459	227	521	514	583	625	645
234	398	180	460	228	522	515	584	543	646
388	399	181	461	229	523	516	585	626	647
.....	.....	182	462	230	524	517	586	621	648
.....	.....	263	463	231	525	518	587	605	649
.....	.....	264	464	232	526	519	588	635	650
448	403	265	465	233	527	520	589	.....	.....
396	404	.....	.....	99	528	521	590	.....	.....
397	405	.....	.....	454	529	522	591	.....	.....
398	406	.....	.....	455	530	540	592	622	654
399	407	266	469	456	531	.....	.....	623	655
.....	.....	184	470	457	532	541	594	606	656
.....	.....	185	471	458	533	542	595	.....	.....
.....	.....	186	472	459	534	527	596	607	658
401	411	187	473	460	535	568	597	.....	.....
402	412	188	474	461	536	620	598	.....	.....
403	413	189	475	462	537	569	599	636	661
404	414	190	476	463	538	578	600	637	662
405	415	191	477	466	539	581	601	638	663
406	416	192	478	467	540	582	602	639	664
407	417	193	479	468	541	583	603	640	665
408	418	267	480	469	542	587	604	641	666
409	419	268	481	470	543	584	605	642	667
410	420	269	482	471	544	585	606	643	668
411	421	270	483	472	545	.....	.....	644	669
413	422	271	484	.....	.....	.....	.....	645	670
414	423	272	485	473	547	588	609	646	671
415	424	273	486	474	548	586	610	647	672
416	425	194	487	475	549	.....	.....	648	673
417	426	.....	.....	476	550	580	612	649	674
419	427	195	489	.....	.....	616	613	650	675
420	428	196	490	478	552	570	614	651	676
421	429	197	491	479	553	.....	.....	652	677
422	430	.....	.....	480	554	571	616	653	678
423	431	.....	.....	481	555	579	617	654	679
425	432	.....	.....	483	556	572	618	655	680
426	433	.....	.....	484	557	573	619	656	681
427	434	.....	.....	485	558	574	620	657	682
428	435	.....	.....	486	559	575	621	658	683
429	436	.....	.....	487	560	576	622	659	684
430	437	.....	.....	488	561	577	623	660	685
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APPENDIX

Notice—In deference to the wishes of the General Assembly, expressed in an Act approved March 22nd, 1922, (after the adoption of the Code of Laws of 1922,) and for the accommodation of the legal profession and the public at large the Code Commissioner and the Code Collaborators have incorporated within Volumes 1, 2 and 3, of the Code of Laws of 1922, respectively, as an appendix only to the respective volumes of the Code, but in no sense as a part of the official Code, all Acts of the General Assembly of the year 1922, which were amendatory of specific Sections of the Code of Laws, Volumes 1 and 2, of 1912; also all amendments to the Constitution, ratified theretofore and at said session.

Where there is in the Code of 1922 a corresponding Section to that which in the Code of 1912 was amended by the General Assembly of 1922, reference is made at the head of the Amendatory Acts to the Sections so affected.

No. 579.

AN ACT to Require all Amendments Made at This Session of the General Assembly to Sections of the Code of Laws of 1912, Volumes I and II, to Be Incorporated as Amendments Thereof in the Code of Laws of 1922, Volume I, II and III; and all Amendments to the Constitution Ratified at This and Former Sessions.

Section 1. Amendments of Present Session to Code of 1912 to be Incorporated in Code of 1922—Proviso.—Be it enacted by the General Assembly of the State of South Carolina: That the Code Commission and Commissioners be, and they are hereby required to incorporate within Volumes I, II and III, of the Code of Laws of 1922, all Sections of the Code of Laws of 1912, Volume I and II, which have been amended at the session of the General Assembly held in 1922; also all amendments to the Constitution ratified heretofore and at said session, as amendments to the Reports of the Commission and Commissioner laid upon the desks at the former and present Sessions of the General Assembly: *Provided*, Only amendments directly specifying by number or numbers the Section or Sections amended shall be so inserted, and Acts of 1922, relating to the time of holding Courts in the several Circuits and Acts relating to the drawing and empaneling of jurors.

§ 2. This Act shall take effect immediately upon its approval by the Governor.

Approved the 22nd day of March, A. D. 1922.

No. 505.

[See § (151) Infra.]

AN ACT to Amend Section 158, of the Criminal Code of Laws, 1912, Volume II, Relating to Carrying Concealed Weapons, so as to Provide for the Forfeit of Weapons to Municipalities.

Section 1. Sec. 158, Criminal Code, 1912. Amended—Forfeiture of Weapons by Municipal Courts.—Be it enacted by the General Assembly of the State of South Carolina: Amend Section 158, Criminal Code of Laws, 1912, Volume 2, by adding after the word "concealed" on line five of said Section the following, "and if convicted in a municipal Court said weapon shall be forfeited to said municipality" so that said Section when so amended shall read as follows:

SECTION 158. Any person carrying a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon usually used for the infliction of personal injury, concealed about his person, shall be guilty of a misdemeanor, and upon conviction thereof before a court of competent jurisdiction, shall forfeit to the county the weapon so carried concealed, and if convicted in a municipal court said weapon shall be forfeited to said municipality, and be fined in the sum of not more than one hundred ($100.00) dollars and not less than twenty ($20.00) dollars, or imprisoned not more than thirty nor less than ten days, in the discretion of the court. Nothing herein contained shall be construed to apply to persons carrying concealed weapons upon their own premises, or peace officers in the actual discharge of their duties as peace officers.

§ 2. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

§ 3. This Act shall take effect immediately upon its approval by the Governor.

Approved the 22nd day of March, A. D. 1922.

No. 499.

[See § (267) Infra.]

AN ACT to Amend Section 480, of the Criminal Code of Laws, Volume II, and all Sections of the Civil Code Pertaining Thereto, by Further Defining the Right of Manufacturers in This State.

Section 1. Sec. 480, Criminal Code, 1912, and Sections of Civil Code Therein Referred to, Amended—Use of Crushed Whole Ear Corn in Feed-Stuffs.—Be it enacted by the General Assembly of the State of South Carolina: Amend Section 480, of the Criminal Code of Laws, 1912, Volume II, and all amendatory Acts thereto, including Sections of the Civil Code therein mentioned, by adding after said Section the following proviso: "*Provided further*, That the provisions of this Act referring to the use of crushed whole ear corn as a feed or mixed with other ingredients in the manufacture of commercial feedstuff shall not apply to manufacturers in South Carolina: *Provided further*, That the amount of corn cobs present

shall in no case exceed the amount derived from the milling of the crushed whole ear corn," so that said Section as amended shall read as follows:

SECTION 480. It shall be unlawful to sell, offer or expose for sale, any mixed or compounded commercial feeding stuff containing as an ingredient crushed or ground ear corn: *Provided*, That nothing herein shall prevent the sale of crushed or ground ear corn by itself and not mixed with any other substance, but the crushed or ground ear corn when sold by itself is a concentrated commercial feeding stuff defined in Section 2421, of the Civil Code, and the sale thereof within this State shall be governed by the provisions of Sections 2420 to 2433, inclusive, of the Civil Code, and Sections 480 to 483 of this Criminal Code, and the rules and regulations prescribed by the Commissioner of Agriculture, Commerce and Industries: *Provided further*, That the provisions of this Act referring to the use of crushed whole ear corn as a feed or mixed with other ingredients in the manufacture of commercial feedstuff shall not apply to manufacturers in South Carolina: *Provided further*, That the amount of corn cobs present shall in no case exceed the amount derived from the milling of the crushed whole ear corn.

Approved the 1st day of March, A. D. 1922.

No. 436.

[See § (765) Infra.]

AN ACT to Amend Section 748 of the Code of Laws of 1912, Volume II (Criminal Code) as Amended by an Act Entitled "An Act to Amend Sections 747 and 748 Criminal Code of 1912, Relating to the Election and Duties of Chief Game Warden," Relating to the Term of Office of County Game Warden.

Section 1, Section 748, Criminal Code, 1912, Amended—Term of Office of Game Warden.—Be it Enacted by the General Assembly of the State of South Carolina, that Section 748 of the Code of Laws of 1912, Volume II, (Criminal Code) as amended by an Act entitled "An Act to amend Sections 747 and 748 Criminal Code, relating to the election and duties of Chief Game Warden," approved the 13th day of February, 1920, be, and the same is hereby, amended by striking out between the words "office" on line four and "until" on line five, the words "unless otherwise provided for shall be during good behavior or," and insert in lieu thereof "shall be for two years and," so that said amended Section, when so amended, shall read as follows:

SECTION 748. The Governor of the State shall appoint, upon the recommendation of the Legislative Delegation of the several counties, from time to time, bird, non-migratory fish and game wardens, whose term of office shall be for two years and until their successors are appointed. The Governor shall issue a commission to each person appointed as a warden, and shall transmit such commission to the office of the Clerk of Court for the county in which the prospective treasurer, or bird, non-migratory fish and game warden is a resident. No tax or fee shall be charged or collected for

said commission. Any of the said wardens or Chief Game Warden may be removed by the Governor upon proof satisfactory to him that they are not fit persons for said positions. The compensation of said wardens shall be fixed and paid by the Chief Game Warden from and out of the Game Protection Fund, as provided in Section 745.

§ 2. That all Acts or parts of Acts inconsistent with this Act be, and the same are hereby repealed.

§ 3. That this Act shall take effect immediately upon its approval by the Governor.

Approved the 26th day of January, A. D. 1922.

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